

THE
Indian Statute Book

GENERAL SERIES

VOL. III.

BY

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Vakil, Chingleput, Madras.

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PREFACE.

THIS edition of the Indian Statute Book, now published in Four Handy Royal Octavo Volumes, contains all the unrepealed Acts of the Governor-General in Council, from 1834 to 1904, which are applicable to the whole of British India. All the General Acts have been revised with reference to the latest repealing and amending Acts. Tables of Contents and Indexes have been added to all important Acts to enhance the usefulness of the work. A Chronological Table of Contents has been placed at the beginning of each volume and a copious General Index appended to each for facility of reference.

RAYAPURAM,
MADRAS,
1st May 1905.

C. ANNADURAI AIYAR.

THE STATUTE BOOK.

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CHRONOLOGICAL LIST OF LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

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	VII	The Panch Mahals Laws Act, 1885 ...	Bombay Code.
	VIII	The Bengal Tenancy Act, 1885 ...	Bengal Code.
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	XXI	The Madras Civil Courts Act, 1885 ...	Madras Code.
1886	I	The Lahore Tramways Act, 1886 ...	Punjab Code.
	III	The Northern India Ferries Act, 1878, Amendment Act, 1886.	Punjab Code. Central Provinces Code. United Provinces Code. Coorg Code. Ajmere Code. Assam Code.
	V	The Mirzapur Stone Mahal Act, 1886.	United Provinces Code.
	VIII	Tenancy, Bengal (amending Act VIII of 1865).	Bengal Code.
	IX	The Deo Estate Act, 1886 ...	Not republished.
	XIV	The N.-W. Provinces Rent Act, 1886...	United Provinces Code.
	XVII	The Jhansi and Morar Act, 1886' ...	United Provinces Code.
	XIX	Lieutenant-Governor's Functions, N.-W. Provinces.	United Provinces Code.
	XXI	The Oudh Wasikas Act, 1886 ...	Not republished.
	XXII	The Oudh Rent Act, 1886 ...	United Provinces Code.
	XXIII	The Dekkhan Agriculturists' Relief Act, 1886.	Bombay Code.
1887	IV	The Indian Museum Act, 1887 ...	Bengal Code.
	XI	The Sindh-Pishin Railway Act, 1887 ...	Baluchistan.
	XII	The Bengal, N.-W. Provinces and Assam Civil Courts Act, 1887.	Bengal Code. United Provinces Code. Assam Code.

*Chronological List of Local Acts of the Governor-General
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Year.	Number.	Short Title.	Where published.
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	XVI	The Punjab Tenancy Act, 1887 ...	Punjab Code.
	XVII	The Punjab Land-revenue Act, 1887 ...	Punjab Code. Ajmere Code.
	XVIII	The Allahabad University Act, 1887 ...	United Provinces Code
	XIX	King of Oudh's Estate ...	Not republished.
	XII	Supplementing the Bombay Municipal Act III of 1888.	Bombay Code.
	XIII	The Punjab Courts Act, 1888 ...	Punjab Code.
	XIV	King of Oudh's Estate ...	Not republished.
1889	XVIII	Financial Commissioner, Burma ...	Burma Code.
	III	The Lower Burma Village Act, 1889 ...	Burma Code.
	V	Coroners (amending Act IV of 1871) ...	Bombay Code. Madras Code. Bengal Code.
	IX	The N.-W. Provinces and Oudh Kanungos and Patwaris Act, 1889.	United Provinces Code
	XVI	The Central Provinces Land-revenue Act, 1889.	Central Provinces Code
	XVIII	The Central Provinces Municipal Act, 1889.	Central Provinces Code
1890	VII	The Comptoir National d'Escompte de Paris Act, 1890.	Not republished.
	XX	The N.-W. Provinces and Oudh Act, 1890.	United Provinces Code.
1891	VIII	Easements (extending Act V of 1882).	United Provinces Code. Bombay Code.
	XIV	The Oudh Courts Act, 1891 ...	United Provinces Code.
	XV	The Moorshedabad Act, 1891 ...	Not republished.
	XX	The Punjab Municipal Act, 1891 ...	Punjab Code.
1892		The Rangoon Port Commissioners Act (1879) Amendment Act, 1892.	Burma Code.

*Chronological List of Local Acts of the Governor-General
in Council—continued.*

Year.	Number.	Short Title.	Where published.
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	V	The Bengal Military Police Act, 1892.	Bengal Code.
	VII	The Madras City Civil Court Act, 1892.	Madras Code.
	IX	The Lower Burma Towns Act, 1892 ...	Burma Code.
1893	II	The Porahat Estate Act, 1893 ...	Bengal Code.
	III	The Government Tenants (Punjab) Act, 1893.	Punjab Code.
1893	VI	Sir Dinshaw Manockjee Petit ...	Not republished.
	XI	The Tributary Mahals of Orissa Act, 1893.	Bengal Code.
1894	IV	The Repealing and Amending Act, 1894.	Bombay Code.
	XI	The Lower Burma Village Act ; 1889, Amendment Act, 1894.	Burma Code.
	XV	The Engineers' Certificates Validation Act, 1894.	Bombay Code.
1895	II	The Burma Boundaries Act Amendment Act, 1895.	Burma Code.
	VI	The Dekkhan Agriculturists' Relief Act, 1895.	Bombay Code.
	XI	Pegu and Tenasserim Validation Act, 1895.	Burma Code.
	XVI	The Repealing and Amending Act, 1895.	Bombay Code.
	XVIII	The Lower Burma Villages and Towns Law Amendment Act, 1895.	Burma Code.
	XIX	Courts, Punjab (amending Act XVIII of 1834).	Punjab Code.
1896	XII	The Excise Act, 1896 ...	Ajmere Code. Beluchistan Code. Burma Code. Central Provinces Code. Coorg Code. United Provinces Code. Punjab Code.

*Chronological List of Local Acts of the
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Year.	Number.	Short Title.	Where published.
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	XVIII	Municipalities, Punjab (amending Act XX of 1891).	Punjab Code.
	XX	The Sindh Incumbered Estates Act, 1896.	Bombay Code.
1897	XVI	The Oudh Courts Act (1891) (Amendment Act, 1897).	United Provinces Code.

**CHRONOLOGICAL LIST OF REPEALED ACTS OF THE
GOVERNOR-GENERAL IN COUNCIL, BOTH
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Year.	Number.	Short Title.	By what Act Repealed.
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	XI	Municipalities, Lower Burma (amending Act XVII of 1884).	Act XIX of 1888.
	XIV	The Burma Courts Act, 1885 ...	Act XI of 1889.
	XVI	The Central Provinces Civil Courts Act, 1885.	Act II of 1904.
	XVII	The Central Provinces Government Wards Act, 1885.	Act XXIV of 1899.
	XIX	The Indian Securities Act, 1885 ...	Act XIII of 1886.
	XX	Postponing temporarily the operation of certain provisions of the Bengal Tenancy Act, 1885.	Act XII of 1891.
1886	XII	The Petroleum Act, 1886 ...	Act VIII of 1889.
	XV	Land-revenue, N.-W. Provinces (amending Act XIX of 1873).	Act I of 1903.
	XVI	The Lower Burma Gaols Delivery Act, 1886.	Act XI of 1889.
	XX	The Upper Burma Laws Act, 1886 ...	Act XIII of 1898, s. 18.
	XXIV	Glanders and Farcy (extending Act, XX of 1879 to Bombay).	Act XII of 1891.
1887	I	The General Clauses Act, 1887 ...	Act X of 1897.
	V	Criminal Procedure (amending Act X of 1882).	Act V of 1898.
	VIII	Abolishing Military Courts of Requests	Act XII of 1891.
	XIII	The Electricity Act, 1887 ...	Act III of 1903.

*Chronological List of Repealed Acts of the Governor-General in Council,
both General and Local—continued.*

Year.	Number.	Short Title.	By what Act Repealed.
1887	XXI	The Inland Bonded Warehouses Act, 1887.	Act VIII of 1896.
1888	I	Stamps (amending Act I of 1879) ...	Act II of 1899.
	IX	Repealing Contagious Diseases Acts...	Act XII of 1891.
	XV	The Shan States Act, 1888 ...	Act XIII of 1898, s. 18.
	XVI	Repealing Act VII of 1867 and Madras Regulation XIV of 1832.	Act XII of 1891.
	XIX	Municipalities, Lower Burma (amending Act XVII of 1884).	Act XIII of 1898, s. 18.
1889	XI	The Lower Burma Courts Act, 1889 ..	Act VI of 1900, s. 48.
	XII	Merchandise Marks (amending Act IV of 1889).	Act XII of 1891.
	XIV	Indemnity to certain Witnesses ...	Act XVI of 1895.
	XVII	The Central Provinces Tenancy Act, 1889.	Act XI of 1898, s. 100.
	XIX	The Central Provinces Village-sanitation Act, 1889.	Act XI of 1902.
1890	IV	Civil Courts, Central Provinces (amending Act XVI of 1885).	Act II of 1904.
	XII	Tariff (amending Act XI of 1882) ...	Act VIII of 1894.
	XIV	Petroleum (amending Act XII of 1886, Schedule).	Act VIII of 1899.
	XV	Paper Currency (amending Act XX of 1882).	Act XXI of 1896.
	XVII	The Indian Census Act, 1890 ...	Act I of 1903.
1891	IV	Criminal Procedure (amending Act X of 1882).	Act V of 1898.
	XIX	The Upper Burma Laws Act Amendment Act, 1891.	Act XIII of 1898, s. 18.
	XXI	Municipalities, Lower Burma (amending Act XVII of 1884).	Act XIII of 1898.
	XXII	Inland Emigration (extending Act I of 1882).	Act VII of 1893, s. 38.
1892	I	Tariff (amending Act XI of 1882) ...	Act VIII of 1894.

*Chronological List of Repealed Acts of the Governor-General in Council,
both General and*

Year.	Number.	Short Title.	By what Act Repealed.
1893	V	The Foreign Jurisdiction (Capital Sentences) Act, 1893.	Act III of 1900.
	VII	The Inland Emigration Act, 1893 ...	Act VI of 1901.
	IX	Tariff (amending Act XI of 1882) ...	Act VIII of 1894.
	X	Excise (amending Act XXII of 1881).	Act XII of 1896.
1894	VI	Stamps (amending Act I of 1879) ...	Act II of 1899.
	VII	Prisoners Act V of 1871 (Amendment Act, 1894).	Act III of 1900.
	X	Criminal Procedure (amending Act X of 1882).	Act V of 1898.
	XIV	Municipalities, Lower Burma (amending Act XVII of 1884).	Act XIII of 1898, s. 18.
	XVI	Tariff (amending Act VIII of 1894) ...	Act I of 1903.
	XVII	The Cotton Duties Act, 1894 ..	Act II of 1896.
1895	IV	Criminal Procedure (amending Act X of 1882).	Act V of 1898.
	V	The Cantonments Act Amendment Act, 1895.	Act XV of 1897.
	IX	The Extradition (India) Act, 1895 ...	Act XV of 1903.
	XVII	The Marriages Validation (Bangalore) Act, 1895.	Act XI of 1901.
	XXI	Laws, Upper Burma; Shan States (amending Acts XX of 1886 and XV of 1888).	Act XIII of 1898, s. 18
1896	V	The Foreign Jurisdiction and Extradition Amendment Act, 1896	Act XV of 1903.
	VII	The Presidency Small Cause Courts Amendment Act, 1896.	Act I of 1903
	XIII	Criminal Procedure Code (1882) Amendment Act, 1896.	Act V of 1898.
	XIV	Government Tenants Punjab (amending Act III of 1893).	Act I of 1903.

*Chronological List of Repealed Acts of the Governor-General in Council,
both General and Local—continued.*

Year.	Number.	Short Title.	By what Act Repealed.
1896:	XV	The Glanders and Farcy Act, 1896 ...	Act XIII of 1897.
	XVI	Post Office (amending Act XIV of 1866).	Act VI of 1898.
	XIX	The Central Provinces Additional Judicial Commissioners Act, 1896.	Act II of 1904.
1897	XI	The Bhopal Coinage Act, 1897 ...	Act I of 1903.
	XIII	The Indian Stamp Act (1879) Amendment Act, 1897.	Act II of 1899.

THE
UNREPEALED ACTS
OF THE
GOVERNOR-GENERAL IN COUNCIL.

GENERAL ACTS

[APPLICABLE TO THE WHOLE OF BRITISH INDIA].

ACT II OF 1885.*

**Act II
of
1885.**

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JANUARY 1885.

An Act to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881, in manner hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Negotiable Instruments Act, 1885.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words "When acceptance is refused and the bill is protested for non-acceptance" the following shall be substituted, namely :—"When a bill of exchange has been noted or protested for non-acceptance or for better security."

* For Statement of Objects and Reasons, see *Gazette of India*, 1884, Part V, p. 19 ; for Report of the Select Committee, see *ibid.*, 1885, Part V, p. 39, and for Proceedings in Council, see *ibid.*, 1884, Supplement, pp. 393 and 399, and *ibid.*, 1885, Supplement, p. 183.

This Act is now in force in the whole of Upper Burma (except the Shan States) as being part of the original Act XXVI of 1851, declared in force there by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4.

Act II of 1885 had been previously declared in force in the town of Mandalay only, in Upper Burma by the Upper Burma Laws Act, 1886 (XX of 1886), s. 6 (1), now repealed by Act XIII of 1898.

t II
of
185.

New section inserted after
section 45 of the same Act.

3. After section 45 of the same Act the
following shall be inserted :—

“ 45A. Where a bill of exchange has been lost before it is over-due,
Holders' right to dupli- the person who was the holder of it may apply to
cate of lost bill. the drawer to give him another bill of the same
tenor, giving security to the drawer, if required, to indemnify him against all
persons whatever in case the bill alleged to have been lost shall be found
again.

“ If the drawer on request as aforesaid refuses to give such duplicate
bill, he may be compelled to do so. ” •

Addition to sections 61
and 64 of the same Act.

4. To section 61, and the first paragraph of
section 64, of the same Act, the following shall be
added :—

“ Where authorized by agreement or usage, a presentment through the
post office by means of a registered letter is sufficient. ”

Addition to section 101
of the same Act.

5. To section 101 of the same Act the
following shall be added :—

“ A notary public may make the demand mentioned in clause (c) of this
section either in person or by his clerk or, where authorized by agreement or
usage, by registered letter. ”

Section inserted after sec-
tion 104 of the same Act.

6. After section 104 of the same Act the
following shall be inserted :—

“ 104A. For the purposes of this Act, where a bill or note is required
When noting equivalent to be protested within a specified time or before
to protest. some further proceeding is taken, it is sufficient
that the bill has been noted for protest before the expiration of the specified
time or the taking of the proceeding ; and the formal protest may be extended
at any time thereafter as of the date of the noting. ”

*[Section 108 of the same Act, in part, repealed.] Rep. by the
Repealing and Amending Act, 1891 (XII of*

Amendment of section
109 of same Act

8. In the same Act, section 109,

(a) for the words “ in the presence of a notary public subscribe the
bill with his own hand and ” the following shall be substituted,
namely :—“ by writing on the bill under his hand. ”

*[Repeal of last twelve words of section 109.] Rep. by the Repeal-
ing and Amending Act, 1891 (XII of 1891).*

Amendment of section
113 of same Act.

9. In the same Act, section 113, after the words "the person so paying" the words "or his agent in that behalf" shall be inserted.

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of
1885.

New chapter added to
same Act.

10. After Chapter XVI of the same Act the following shall be inserted :—

" CHAPTER XVII.,

" NOTARIES PUBLIC.

" 138. The Governor-General in Council may, from time to time, by notification in the official Gazette, appoint any person, "by name or, by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

" 139. The Governor-General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules (among other matters), fix the fees payable to such notaries."

ACT III OF 1885.*

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JANUARY 1885.

An Act to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882 ; It is hereby enacted as follows :—

Amendment of section 1
of Act IV of 1882.

1. For the fifth clause of section 1 of the said Act the following shall be substituted, namely :—

"And any Local Government may, with the previous sanction of the Governor-General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely :—

" Sections 54, paragraphs 2 and 3, 59, 107 and 123."

* Short title, " The Transfer of Property Act (1882) Amendment Act, 1885," see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1884, Part V, p. 475 ; for Report of the Select Committee, see *ibid.*, 1885, Part V, p. 37 ; and for Proceedings in Council, see *ibid.*, 1884, Supplement, pp. 1169 and 1273, and *ibid.*, 1885, Supplement, p. 185.

This Act is in force (1) in the whole of the territories, other than the Scheduled Districts, under the administration of the Government of Bombay, see *Bombay Government Gazette*, 1892, Part I, p. 1071 ; (2) the area included within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, see *Burma Gazette*, 1892, Part I, p. 373, as being part of the Transfer of Property Act, 1882 (IV of 1882).

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2. The following clause shall be deemed to have been added to the first section of the said Act from the date on which it came into force, namely :—
Addition to same section.

“ Notwithstanding anything in the foregoing part of this section, sections 54, paragraphs 2 and 3, 59, 107 and 123 shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Indian Registration Act, 1877, under the power conferred by the first section of that Act or otherwise.”

3. To section 4 of the said Act the following shall be added, namely :—
Addition to section 4 of same Act.

“ And sections 54, paragraphs 2 and 3, 59, 107 and 123 shall be read as supplemental to the Indian Registration Act, 1877.”

4. To section 6 of the said Act the following clause shall be added :—
Addition to section 6 of same Act.

“ (i) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue or the lessee of an estate under the management of a Court of Wards to assign his interest as such tenant, farmer or lessee.”

5. In section 69 of the said Act—
Amendment of section 69 of same Act.

(a) after the words “ is valid in the following cases ” the words “ and in no others ” shall be inserted ; and

(b) after the words “ Hindu, Muhammadan or Buddhist,” in both places where they occur, there shall be inserted the words “ or a member of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor-General in Council, in the local official Gazette.”

ACT IX OF 1885.*

Act IX
of
1885.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH MAY 1885.

An Act . . . † to amend . . . ‡ the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

WHEREAS it is expedient . . . † to amend . . . ‡ section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

1. [*Repeal of part of section 6 of Act XI of 1882.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

2. [*Amendment of section 7 of Act XXII of 1881.*] *Rep. by the Excise Act, 1896 (XII of 1896).*

3. In section 18 of the Bengal Excise Act, 1878, for the words “ at the rate leviable under any Tariff Act for the time being in force ” the words “ at such rate as the Local Government may from time to time fix in respect of such spirituous liquor ” shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, § as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Bengal Excise Act, 1878, is in force be deemed to be the duty fixed by

* Short title, “ The Excise and Sea Customs Law Amendment Act, 1885,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1884, Part V, p. 599; and for Proceedings in Council, see *ibid.*, 1884, Supplement. pp. 1651 and 1709, and *ibid.*, 1885, Supplement, p. 897.

So far as the Act amends the Sea Customs Act, 1878 (VIII of 1878) it is in force in Upper Burma (except the Shan States) as being a part of that Act declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898).

Ss. 1, 3 and 4 of this Act have been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation (III of 1872), s. 3, as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), s. 2, printed, Bengal Code, Vol. I, Ed. 1889, p. 597.

† The words “ to repeal part of section 6 of the Indian Tariff Act, 1882, and ” were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

‡ The words “ the Excise Act, 1881,” in the title and the words “ section 7 of the Excise Act, 1881,” in the preamble were repealed by the Excise Act, 1896 (XII of 1896).

§ Repealed by the Tariff Act, 1894 (VIII of 1894).

|| The words “ the Excise Act, 1881. or ” were repealed by the Excise Act, 1896 (XII of 1896).

Act XII of 1885. the Local Government under section * 18 of that * Act, . . .
 . . . as amended by this Act. . . . *

5. (1) In section 145 of the Sea Customs Act, 1878, after the word
 Amendment of sections 145 and 149 of Act VIII of "shall" the words "except when provision is
 made by any enactment for the time being in force
 for its being intermediately deposited in a licensed
 warehouse" shall be inserted.

In section 149 of the same Act, after the words "custom-house" the
 words "or to a warehouse licensed under any enactment for the time being
 in force" shall be inserted.

6. In section 207 of the same Act, for the word "respectively" the
 Amendment of section 207 of the same Act. words "or any like body hereafter created for any
 other port" shall be substituted.

ACT XII OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND JULY 1885.

An Act to amend the law relating to the Carriage of Passengers by Sea.

WHEREAS by section 99 of an Act of the Imperial Parliament called
 "The Passengers Act, 1855,"† it is enacted that "it shall be lawful for the
 Governor-General of India in Council, from time to time, by any Act or Acts
 to be passed for that purpose, to declare that this Act or any part thereof
 shall apply to the carriage of passengers upon any voyage, from any ports or
 places within the territories of British India, to be specified in such Act or
 Acts, to any other places whatsoever, to be also specified in such Act or Acts ;"
 and it is thereby also enacted that "on the passing of such Indian Act or
 Acts, and whilst the same shall remain in force, all such parts of this Act as
 shall be adopted therein shall apply to and extend to the carriage of pas-
 sengers upon such voyages as in the said Indian Act or Acts shall be specified.
 The provisions of such Indian Act shall be enforced in all Her Majesty's
 possessions in like manner as the provisions of this Act may be enforced ;"

And whereas certain parts of the said Act of Parliament were by Act II
 of 1860 (*to amend the law relating to the carriage of passengers by sea*) made
 applicable to the carriage of passengers upon certain specified voyages ;

* The following changes in s. 4, namely, the alteration of "sections" for "section,"
 the omission of the word "and" in the last line, the alteration of the word "this" to
 the word "that" and of the word "Acts" to the word "Act," and the omission of the
 word "respectively" at the end of the section, have been necessitated by the repeal of
 the figure "7" as relating to the Excise Act, 1881 (XXI of 1881), by the Excise Act,
 1896 (XII of 1896), which repeals so much of this Act as relates to Act XXII of 1881.

† For Statement of Objects and Reasons, see *Gazette of India*, 1884, Part V, p. 602 ;
 for Report of the Select Committee, see *ibid.*, 1885, Part IV, p. 185 ; and for Proceedings
 in Council, see *ibid.*, 1884, Supplement, pp. 1652 and 1709, and *ibid.*, 1885, Supplement,
 p. 1179.

‡ Printed, Collection of Statutes relating to India, Vol. I, Ed. 1881, p. 640.

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act ;

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1885.**

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860 :

It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Sea Passengers Act, 1885 : and

(2) It shall come into force on the first day of October, 1885.

2. [*Repeal of Act II of 1860. Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*]

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely :—

Certain provisions of the Statutes made applicable to specified voyages from India

- (a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji ;
- (b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana ;
- (c) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana ;
- (d) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix ;
- (e) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf, and on the East Coast of Africa.

4. If the passengers or cabin-passengers upon any such voyage as is

Governors or Consuls may pay expenses of passengers taken off passenger-ship.

specified in the last preceding section are taken off from the ship carrying them or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are con-

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veyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

A certificate in the form given in the schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred ;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred ;

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

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7. No policy of assurance effected in respect of any passages or of any passage or compensation money by any person Insurance. this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

THE SCHEDULE.

Form of Governor's or Consul's Certificate of Expenditure in the case of Passengers shipwrecked, etc.

(See section 6.)

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores * and in forwarding to their destination passengers [including cabin-passengers †] who were proceeding from to in the passenger-ship which was wrecked at sea, etc. ‡

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is . and that such expenses were duly incurred by me under the said Act.

Given under my hand this day of , 18 .

Governor of, etc., (or, as the case may be.)

Her Britannic Majesty's Consul at .

* N.B.—1. If more passengers were rescued than forwarded, or if bedding, etc., was not supplied, alter the certificate to suit the facts of the case.

† 2 Omit words in brackets when necessary.

‡ 3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

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ACT XIII OF 1885.

THE INDIAN TELEGRAPH ACT

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ACT XIII OF 1885.*

RECEIVED THE G.-G.'S ASSENT ON THE 22ND JULY 1885.

An Act to amend the law relating to Telegraphs in India.

WHEREAS it is expedient to amend the law relating to telegraphs in India; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, local extent
and commencement.

1. (1) This Act may be called the Indian Telegraph Act, 1885.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October, 1885.

Repeal and savings.

2. The Indian Telegraph Act, 1876, is hereby repealed.

But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “telegraph” means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism :

(2) “telegraph officer” means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act :

(3) “message” means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered :

* For Statement of Objects and Reasons, see *Gazette of India*, 1884, Part V, p. 481; for Report of the Select Committee, see *ibid.*, 1885, Part IV, p. 192; and for Proceedings in Council, see *ibid.*, 1884, Supplement, pp. 1169 and 1296, and *ibid.*, 1885, Supplement, p. 1181.

This Act has been declared in force in Upper Burma (except the Shan States) by the Upper Burma Laws Act, 1886 (XX of 1886), s. 6 (1), see now s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898) by which Act XX of 1886 has been repealed; and in the Santhal Parganas by the Santhal Parganas Settlement Regulation (III of 1872), s. 3, as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), s. 2, printed, Bengal Code, Vol. I, Ed. 1889, p. 597; British Baluchistan, see s. 3 and Schedule to the British Baluchistan Laws Regulation, 1890 (I of 1890), Baluchistan Code, Ed. 1890.

“telegraph line” means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same :

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(5) “post” means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line :

(6) “telegraph authority” means the Director-General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act :

(7) “local authority” means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

Exclusive privilege in respect of telegraphs, and power to grant licenses.

4. Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining and working telegraphs :

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India.

Power for Government to take possession of licensed telegraphs and to order interception of messages.

5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorized in this behalf by the Governor-General in Council, may—

(a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act ; or

(b) order that any message or class of messages to or from any person, or class of persons or relating to any particular subject, brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted, or shall be intercepted or detained or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

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6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

7. (1) The Governor-General in Council may, from time to time, by notification in the Gazette of India, make rules* the conduct of telegraphs. consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is say :—

- (a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted ;
- (b) the precautions to be taken for preventing the improper interception or disclosure of messages ;
- (c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved ; and
- (d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same :

Provided that the fines so prescribed shall not exceed the following limits, namely :

- (i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues :
- (ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

* For rules framed under this section, see *Gazette of India*, 1897, Part I, p. 559, and *ibid.*, 1898, Part I, p. 139.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message ; and no such officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

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PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

Power for telegraph authority to place and maintain telegraph lines and posts.

***10.** The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immoveable property :

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained ;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post ; and
- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority ; and
- (d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

11. The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Power to enter on property in order to repair or remove telegraph lines or posts.

* For power of Governor-General in Council to confer upon any public officer any of the powers of the telegraph authority with respect to the placing of lines and posts, see the Electricity Act, 1887 (XIII of 1887), s. 6, *infra*.

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Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

12. Any permission given by a local authority under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

13. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

14. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

(a) when the telegraph authority desires to alter the position of any such pipe or drain, it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;

(b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

15. (1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such

officer as the Local Government may appoint either generally or specially in this behalf. **Act XIII of 1885.**

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government; and the order of the Local Government shall be final.

Provisions applicable to other Property.

16. (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post

Removal or alteration of telegraph line or post on property other than that of a local authority.

Act XIII of 1885. should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

18. (1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

PART IV.

PENALTIES.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

Intrusion into signal-room, trespass in telegraph office or obstruction.

23. If any person—

- (a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or
- (b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

Intentionally damaging or tampering with telegraphs.

25. If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
- (b) to intercept or to acquaint himself with the contents of any message, or
- (c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,

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he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.

26. If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office.—

(a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or

(b) wilfully and otherwise than in obedience to an order of the Governor-General in Council or of a Local Government, or of an officer specially authorized by the Governor-General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or

(c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer fraudulently sending messages without payment.

which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Misconduct.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Sending fabricated message.

message which he knows to be false or fabricated, he shall be punished with imprisonment for a term

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30. If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and, in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

PART V.

SUPPLEMENTAL PROVISION.

33. (1) Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

*** 34.** (1) This Act, in its application to the Presidency-towns, shall be read as if the words "District Magistrate" in section 16, sub-section (1), and section 17, sub-sections (2) and (3), for the words "Magistrate of

* S. 34 was added by the Indian Telegraphs (Presidency-towns) Act, 1888 (XI of 1888).

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the first or second class" in section 18, sub-section (1), and for the word "Magistrate" in section 18, sub-section (2), there had been enacted the words "Commissioner of Police," and for the words "District Judge," in section 16, sub-sections (3), (4) and (5), the words "Chief Judge of the Court of Small Causes."

(2) Section 16, in its application to the town of Rangoon, shall be read as if for the words "District Judge," whenever they occur in that section, there had been enacted the words "Judge of the Court of Small Causes."

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a Presidency-town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882.

ACT XV OF 1885.*

RECEIVED THE G.-G.'S ASSENT ON THE 2ND OCTOBER 1885.

An Act to amend the Local Authorities Loan Act, 1879.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows:—

Addition to section 8,
Act XI of 1879.

1. After clause (b) of the proviso to section 8 of the said Act the following shall be added:—

"or

"(c) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied."

* Short title, "The Local Authorities Loan Act (1879) Amendment Act, 1885, see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1885, Part V, p. 181; for Report of the Select Committee, see *ibid.*, Part IV, p. 225; and for Proceedings in Council, see *ibid.*, 1885, pp. 845, 859 and 1473.

This Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation (III of 1872), s. 3, as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), s. 2, printed, Bengal Code, Vol. I, Ed. 1889, p. 597. The Act is in force in Upper Burma (except the Shan States) as being part of the original Act XI of 1879, declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898). Under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), it had been previously extended there, see *Burma Gazette*, 1888, Part I, p. 544, and *Gazette of India*, 1889, Part I, p. 51.

ACT XVIII OF 1885.*

RECEIVED THE G.-G.'S ASSENT ON THE 16TH OCTOBER 1885.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.†

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows:—

Short title, commencement and local extent. 1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885; and

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or minerals.

3. (1) When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870,‡ that land is are not needed. needed for a public purpose or for a company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870,† and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation

* For the Statement of Objects and Reasons, see *Gazette of India*, 1885, Part V, p. 145; for Report of the Select Committee, see *ibid.*, Part IV, p. 264; and for Proceedings in Council, see *ibid.*, Supplement, pp. 336 and 1520, and *ibid.*, Extra Supplement, dated 14th March 1885, p. 41.

This Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation (III of 1872), s. 3, as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), s. 2, printed, Bengal Code, Vol. I, Ed. 1889, p. 597; in Angul and the Khondmals, see the schedule to the Angul District Regulation 1894 (I of 1894).

† See now the Land Acquisition Act, 1894 (I of 1894).

‡ See now s. 6 of the Land Acquisition Act, 1894 (I of 1894).

Act XVIII of 1885. under section 11* of the said Land Acquisition Act in respect of the mines, and may—

(a) when he makes an award under section 14* of that Act, insert such a statement in his award ;

(b) when he makes a reference to the Court under section 15† of that Act, insert such a statement in his reference ; or

(c) when he takes possession of the land under section 17‡ of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section and whether before or after the expiration of the said period* of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose : and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish in such manner as the Governor-General in Council may, from time to time, direct, a declaration of its willingness, either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same ; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

* See now s. 11 of the Land Acquisition Act, 1894 (I of 1894).

† See now s. 19 of the Land Acquisition Act, 1894 (I of 1894).

‡ See now s. 17 of the Land Acquisition Act, 1894 (I of 1894).

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

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6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870,* for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor-General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

* See now the Land Acquisition Act, 1894 (I of 1894).

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9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.*

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being or are about to be worked.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

* See now the Land Acquisition Act, 1894 (I of 1894).

13. If it appears that any such mines have been worked contrary to the provisions* of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

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When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to, or has vested, by operation of law, in a local authority or company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government," wherever they occur in those sections, the words "the local authority or company, as the case may be, which has acquired the land" were substituted.

Construction of Act when land acquired has been transferred to a local authority or company.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870,† are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14‡ or a reference to the Court under section 15‡ of that Act, or has taken possession of the land under section of the same.

Pending cases.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870,† to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870,† consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

* See s. 7, sub-section (1), *supra*.

† See now the Land Acquisition Act, 1894 (I of 1894).

‡ See now ss. 11, 19 and 17, respectively, of the Land Acquisition Act, 1894 (I of 1894).

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Definition of local authority and company.

16. In this Act-

- (a) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund ; and
- (b) "company" means a company registered under any of the enactments relating to companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.*

This Act to be read with
Land Acquisition Act, 1870.

* See now the Land Acquisition Act, 1894 (1 of 1894)

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Act
of
1886

THE INCOME-TAX ACT.

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whether the company is incorporated or not, and whether its principal place of business is situate in British India or not :

(3) “prescribed” means prescribed by the Governor-General in Council by notification in the Gazette of India, or by the Governor-General in Council or a Local Government by rules made under this Act :

(4) “salary” includes allowances, fees, commissions, perquisites or profits received, in lieu of or in addition to a fixed salary, in respect of an office or employment of profit ; but, subject to any rules which may be prescribed in this behalf, it does not include travelling, tentage, horse or sumptuary allowance, or any other allowance granted to meet specific expenditure :

(5) “income” means income and profits accruing and arising or received in British India, and includes, in the case of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty, any salary, annuity, pension or gratuity payable to that subject by the Government or by a local authority established in the exercise of the powers of the Governor-General in Council in that behalf :

(6) “Magistrate” means a Presidency Magistrate or a Magistrate of the first or second class :

(7) “person” includes a firm and a Hindu undivided family :

(8) “defaulter” includes a company or firm making default under this Act :

(9) “Collector” means the chief officer in charge of the revenue-administration of a district, and, in a presidency-town, any officer whom the Local Government, by notification in the official Gazette, may, by name or by virtue of his office, appoint to be a Collector for the purposes of this Act ; in the case of a company or firm, it means the Collector, as here defined, of the district or presidency-town in which its principal place of business in British India is situate ; and, in the case of any other person chargeable under this Act, it means the Collector, defined as aforesaid, of the district or presidency-town in which the person has his residence :

(10) “principal officer,” used with reference to a local authority or a company or any other public body or association not being a local authority or company, means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association ; or

(b) any person connected with the authority, company, body or association upon whom the Collector has caused a notice to be served of his intention of treating him as the principal officer thereof ; and

(11) “Part” means a Part of the second schedule to this Act.

CHAPTER II.

LIABILITY TO TAX.

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4. Subject to the exceptions mentioned in the next following section, there shall be paid, in the year beginning with the first day of April, 1886, and in each subsequent year, to the credit of the Government of India, or as the Governor-General in Council directs, in respect of the sources of income specified in the first column of the second schedule to this Act, a tax at the rate specified in that behalf in the second column of that schedule.

Exceptions. **5.** (1) Nothing in section 4 shall render liable to the tax—

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land-revenue or subject to a local rate assessed and collected by officials of the Government, as such ; or

(b) any income derived from—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce ; or

(c) any building owned and occupied by the receiver of the rent or revenue of any such land as is referred to in clause (a), or by the cultivator, or the receiver of rent-in-kind, of any land with respect to which or the produce whereof any operation mentioned in clause (b) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue, or the cultivator or the receiver of the rent-in-kind, by reason of his connection with the land, requires as a dwelling-house, or as a store-house, factory or other out-building ; or

(d) any profits of a shipping company incorporated or registered out of British India and having its principal place of business out of India and its ships ordinarily engaged in sea-going traffic out of Indian waters ; or

(e) any income derived from property solely employed for religious or public charitable purposes ; or

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(f) any income which a person enjoys as a member of a company or of a firm or of a Hindu undivided family when the company or the firm or the family is liable to the tax ; or

(g) subject to any conditions and restrictions which may be prescribed in this behalf, such portion, not exceeding one-sixth of the income in respect whereof a person would, but for this exception, be chargeable under this Act, as is deducted from the salary of the person under the authority or with the permission of the Government for the purpose of securing a deferred annuity to him or a provision to his wife or children after his death or is paid by the person to an insurance company in respect of an insurance or deferred annuity on his own life or on the life of his wife ; or

(h) any interest on stock-notes ; or

(i) the salary of any officer, warrant-officer, non-commissioned officer or private of Her Majesty's Forces or of Her Majesty's Indian Forces who is not in an employment which, according to the ordinary practice, is held indifferently by military persons and civilians, and whose salary does not exceed five hundred rupees per mensem ; or

(j) any person whose income from all sources is less than five hundred rupees per annum.

(2) An officer or servant is not exempt from taxation under this Act by reason only of the income of his employer being exempt therefrom under this section.

6. The Governor-General in Council may, by notification in the Gazette of India, exempt from liability to the tax * the whole or any part of the income of any class or tribe, or of any persons residing in any specified area, and may, by like notification, revoke the exemption.

CHAPTER III.

ASSESSMENT AND COLLECTION.

A.—Salaries and Pensions.

7. In the case of a person receiving any salary, annuity, pension or gratuity from the Government, any sum payable to him by the Government in respect of the salary, annuity, pension or gratuity shall be reduced by the amount of the tax to which he is liable under Part I in respect thereof.

* For the consolidated notification as to exemptions from tax and assessment under the Act, issued under this s. 6 and s. 38, see *Gazette of India*, 1890, Part I, p. 408, and *ibid.*, 1893, Part I, p. 647.

8. (1) In the case of a person receiving any salary, annuity, pension or gratuity from a local authority, the tax to which he is liable under Part I shall, at the time of the payment to him of any of the salary, annuity, pension or gratuity, be deducted therefrom by the officer whose duty it is to make the payment, and be paid by that officer within the prescribed time to the credit of the Government of India or as the Governor-General in Council directs.

(2) If that officer does not deduct and pay the tax as required by subsection (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(3) If, when any payment is made, the tax is from any cause not deducted, it may, and on the requisition of the Collector shall, be deducted when any salary, annuity, pension or gratuity is subsequently paid to the person liable to the tax.

(4) The power to deduct under this section shall be without prejudice to any other mode of recovery.

9. (1) The tax to which a person receiving any salary, annuity, pension or gratuity from a company, or from any other public body or association not being a local authority or company, or from a private employer, is liable under Part I, shall be payable by him at the time when any portion of the salary, annuity, pension or gratuity is paid to him.

(2) The Collector may, subject to such conditions as may be prescribed, enter into an arrangement with any company, or any such body or association as aforesaid, or any private employer, with respect to the recovery on behalf of the Government by the company, body, association or employer of the tax to which any person receiving any salary, annuity, pension or gratuity from the company, body, association or employer is liable under Part I.

10. The principal officer of every local authority, and of every company, and of every other public body or association not being a local authority or company, shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, in the prescribed form, a return in writing showing—

(a) the name of every person who is receiving at the date of the return any salary, annuity or pension, or has received during the year ending on that date any gratuity, from the authority, company, body or association, as the case may be, and the address of every such person so far as it is known; and

(b) the amount of the salary, annuity, pension or gratuity so received by each such person, and the time at which the same becomes payable or, in the case of a gratuity, was paid.

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B.—Profits of Companies.

11. The principal officer in British India of every company shall prepare, and on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, a statement in writing signed by him of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of the nett profits so made during the year ending on the said thirty-first day of March.

12. (1) If the Collector has reason to believe that a statement delivered under section 11 is incorrect or incomplete, he may cause to be served on the principal officer of the company a notice requiring him, on or before a date to be therein mentioned, either to attend at the Collector's office and produce, or to cause to be there produced, for the inspection of the Collector, such of the accounts of the company as refer to the year to which the statement relates and as are in his possession or power.

(2) On the day specified in the notice, or as soon afterwards as may be, the Collector shall, by an order in writing, determine the amount at which the company shall be assessed under Part II, and the time when the amount shall be paid, and, subject to the provisions of this Act, that amount shall be payable accordingly.

C.—Interest on Securities.

13. (1) The tax payable under Part III in respect of the interest on any of the securities mentioned in that Part shall, at the time when and place where any of the interest is paid, be deducted therefrom by the person empowered to pay the interest, and be paid by that person within the prescribed time to the credit of the Government of India or as the Governor-General in Council directs.

If that person does not deduct and pay the tax as required by subsection (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

D.—Other Sources of Income.

Ordinary Mode of Assessment and Collection.

14. The Collector shall, from time to time, determine what persons are chargeable under Part IV, and the amount at which every person so chargeable shall be assessed.

15. (1) The assessment shall be made upon the income accruing to the person during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then upon the income accruing to him during the year ending on the said thirty-first day of March.

(2) In the case of a person for the first time becoming chargeable under Part IV within the year for which the assessment is to be made, or within the year next before that year, the assessment shall be made according to an average of his income for such period as the Collector, having regard to the circumstances, directs.

16. (1) The Collector shall in each year prepare a list of the persons chargeable under Part IV whose annual income does not, in his opinion, amount to two thousand rupees.

(2) The list shall be in the prescribed language or languages, and shall state in respect of every such person the following particulars, namely :—

- (a) his name, and the source or sources of the income in respect of which he is chargeable ;
- (b) the year or portion of the year for which the tax is to be paid ;
- (c) the place or places, district or districts, where the income accrues ;
- (d) the amount to be paid ; and
- (e) the place where, and the person to whom, the amount is to be paid.

(3) The list shall be filed in the office of the Collector, with a notification prefixed thereto requiring every person mentioned in the list to pay, within sixty days from a date specified in the notification, the amount stated in the list as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

(4) The list so filed shall be open to inspection at all reasonable times without any payment.

(5) The list, or such part or parts thereof as the Collector thinks fit, with the notification prefixed thereto, shall be further published in such manner as the Local Government may consider to be best adapted for giving information to all persons concerned.

(6) The list to be prepared in each year may be the list of the previous year with such amendments as the Collector finds to be necessary.

17. In the case of a person chargeable under Part IV whose annual income is, in the Collector's opinion, two thousand rupees or upwards, the Collector shall cause a notice to be served on him stating the particulars

(a) to (e), both inclusive, mentioned in section 16, sub-section (2), and requiring him to pay, within sixty days from a date specified in the notice, the

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amount stated therein as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

Power to modify ordinary
procedure in special cases.

18. (1) Notwithstanding anything contained in section 16 or section 17, the Local Government may make rules—

- (a) authorizing or directing a Collector in specified cases, or classes of cases, to include in a list under section 16 any person who is liable to be served with a notice under section 17 instead of or in addition to serving him with such a notice, and to serve a notice under section 17 on any person liable to be included in a list under section 16 instead of or in addition to including him in such a list ;

authorizing the Collector in any specified town or place to cause a general notice to be published, inviting every person chargeable under Part IV to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form, published with the notice, of his income during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of his income during the year ending on the said thirty-first day of March ;

- (c) authorizing the Collector in any presidency-town to cause a special notice to be served on any person chargeable under Part IV, inviting him to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form, accompanying the notice, of his income computed in the manner described in clause (b) of this sub-section.

(2) A return delivered under rules made under clause (b) or clause (c) of sub-section (1) must state the period during which the income has actually accrued ; and there must be added at the foot thereof a declaration that the income shown in the return is truly estimated on all the sources therein mentioned, that it has actually accrued within the period therein stated, and that the person making the return has no other sources of income.

(3) When a Collector authorized in that behalf by rules made under clause (b) or clause (c) of sub-section (1) has caused a notice to be published or served under those rules, he shall not include any person to whom the notice applies in any list made under section 16 or serve a notice on him under section 17 until the time specified in the notice published or served under those rules has expired.

(4) Rules made under this section shall be published in the official Gazette.

19. Every amount specified as payable in a list or notice prepared or Time and place of pay- served under section 16 or section 17 shall be paid ment. within the time, at the place, and to the person mentioned in the list or notice.

Trustees, Agents, Managers and Incapacitated Persons.

20. A person being the trustee, guardian, curator or committee of any Trustees, guardians and infant, married woman subject to the law of Eng- committees of incapacitat- land, lunatic or idiot, and having the control of ed persons to be charged. the property of the infant, married woman, lunatic or idiot, whether the infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot is chargeable under Part IV, be chargeable under that Part in like manner and to the same amount as the infant would be chargeable if he were of full age, or the married woman if she were sole, or the lunatic or idiot if he were capable of acting for himself.

21. Any person not resident in British India, whether a subject of Her Non-residents to be Majesty or not, being in receipt, through an agent, charged in names of their of any income chargeable under Part IV, shall be agents. chargeable under that Part in the name of the agent in the like manner and to the like amount as he would be chargeable if he were resident in British India and in direct receipt of that income.

22. Receivers or managers appointed by any Court in India, the Receivers, managers, Courts of Wards, Adminis- Courts of Wards, the Administrators-General of Bengal, Madras and Bombay, and the Official Trustees shall be chargeable under Part IV in Trustees. respect of all income officially in their possession or under their control which is liable to assessment under that Part.

23. When a trustee, guardian, curator, Power to retain duties charged on trustees, etc. committee or agent is, as such, assessed under Part IV,

or when a receiver or manager appointed as aforesaid, a Court of Wards, an Administrator-General or an Official Trustee is assessed under that Part in respect of income officially received,

the person or Court so assessed may, from time to time, out of the money coming to his or its possession as trustee, guardian, curator, committee or agent, or as receiver, manager, Court of Wards, Administrator-General or Official Trustee, retain so much as is sufficient to pay the amount of the assessment.

Occupying Owners.

24. (1) Where a building is occupied by its owner, it shall be deemed Provision for tax on a source of income within the meaning of this Act, occupying owners. and, if liable to be assessed under this Act, shall be assessed at five-sixths of the gross annual rent at which it may reasonably

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be expected to let, and, in the case of a dwelling-house, may be expected to let unfurnished.

(2) "Owner," as used in this section with reference to a building, means the person who would be entitled to receive the rent of the building if the building were let to a tenant.

CHAPTER IV.

REVISION OF ASSESSMENT.

25. (1) Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under Part IV may apply by petition to the Collector to have the assessment reduced or cancelled.

(2) The petition shall ordinarily be presented within the period specified in the notification prefixed to the list filed under section 16, or in the notice served under section 17, as the case may be. But the Collector may receive a petition after the expiration of that period if he is satisfied that the objector had sufficient cause for not presenting it within that period.

(3) The petition shall, as nearly as circumstances admit, be in the form contained in the third schedule to this Act, and the statements contained in the petition shall be verified by the petitioner or some other competent person in the manner required by law for the verification of complaints.

26. The Collector shall fix a day and place for the hearing of the petition, and on the day and at the place so fixed, or on the day and at the place, if any, to which he has adjourned the hearing, shall hear the petition and pass such order thereon as he thinks fit.

27. Subject to the control of the Local Government, the Commissioner of the Division, on the petition of any person deeming himself aggrieved by an order under section 12, sub-section (2), or section 26 shall, if the amount of the assessment to which the petition relates is two hundred and fifty rupees or upwards, and may in his discretion if the amount of the assessment is less than two hundred and fifty rupees, call for the record of the case, and pass such order thereon as he thinks fit.

28. The Collector or Commissioner may, for the purpose of enabling him to determine how the petitioner or the company which he represents should be assessed, summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure :

Provided that the Collector or Commissioner shall not call for any evidence except at the instance of the petitioner or in order to ascertain the correctness of facts alleged by him.

CHAPTER V.

RECOVERY OF ARREARS OF TAX.

29. The tax chargeable under this Act shall be payable at the time appointed in that behalf in or under this Act, or, if a time is not so appointed, then on the first day of June in each year.

30. (1) In any case of default under this Act the Collector, in his discretion, may recover a sum not exceeding double the amount of the tax either as if it were an arrear of land-revenue or by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the territories administered by the Local Government to which he is subordinate, or may pass an order that a sum not exceeding double that amount shall be recovered from the defaulter :

Provided that, where a person has presented a petition under section 25, such sum shall not be recoverable from him unless, within thirty days from the passing of the order on the petition, he fails to pay the amount, if any, required by that order.

(2) The Local Government may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (1) for the recovery of the tax chargeable under this Act.

(3) An order passed by the Collector under sub-section (1) shall have the force of a decree of a Civil Court in a suit in which the Government is the plaintiff and the defaulter is the defendant; and the order may be enforced in manner provided by the Code of Civil Procedure for the enforcement of decrees for money; and the procedure under the said Code in respect of the following matters, namely :—

- (a) sales in execution of decrees,
- (b) arrest in execution of decrees for money,
- (c) execution of decrees by imprisonment,
- (d) claims to attached property, and
- (e) execution of decrees out of the jurisdiction of the Courts by which they were passed,

shall apply to every execution issued for levying the sum mentioned in the order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be exercised and discharged by the Collector by

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whom the order has been made or to whom a copy thereof has been sent for execution according to the provisions of the said Code, sections 223 and 224.

(4) The Local Government may direct, with respect to any specified area, that the tax chargeable under this Act shall be recovered therein with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(5) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of three months from the last day of the year in respect of which the sum is payable.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Composition.

31. (1) If a company or person desires to compound for the tax assessable under Part II or Part IV, as the case may be, the Collector may, subject to such rules as may be prescribed in this behalf, agree with the company or person for a composition for the tax on such terms and for such period as he thinks fit.

(2) The agreement shall provide for the payment, in each year of the period comprised in the agreement, of the amount of the composition; and that amount shall be recoverable in the same manner and by the same means as any other assessment made under Part II or Part IV, as the case may be.

Receipts.

32. When any money is paid under this Act to the Collector or is recovered thereunder by him, he shall give a receipt for the same, specifying—

- (a) the date of the payment or recovery of the money;
- (b) the amount paid or recovered;
- (c) the person who was liable to the tax, and the source or sources of income in respect of which the tax was payable;
- (d) the year or part of the year for which the tax was payable;
- (e) the place or places, district or districts, where the income accrues; and
- (f) such other particulars, if any, as may be prescribed.

Amendment of Assessment.

33. If a company or person assessed under Part II or Part IV ceases to carry on the trade or business in respect whereof the assessment was made, or if any such person dies or becomes insolvent before the end of the year for which the assessment was

made, or if any such company or person is, from any other specific cause, deprived of or loses the income on which the assessment was made, then the company or person or its or his representative in interest may apply to the Collector during or within three months after the end of the year, and the Collector, on proof to his satisfaction of any such cause as aforesaid, shall amend the assessment as the case may require, and refund such sum, if any, as has been overpaid.

Penalties.

Failure to make payments or deliver returns or statements.

34. (1) If a person fails---

- (a) to deduct and pay any tax as required by section 8, sub-section (1), or section 13, sub-section (1), or
- (b) to deliver or cause to be delivered to the Collector in due time the return or statement mentioned in section 10 or section 11, or
- (c) to produce, or cause to be produced, on or before the date mentioned in a notice under section 12, such accounts as are referred to in the notice,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

(2) The Commissioner of the Division may remit wholly or in part any fine imposed under this section.

35. If a person makes a statement in a declaration mentioned in section 18, sub-section (2), which is false, and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

36. A person shall not be proceeded against for an offence under section 34 or section 35, except at the instance of the Collector.

37. Any proceeding under section 12 or Chapter IV of this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code.

Power to make Rules.

*** 38.** (1) The Governor-General in Council may make rules consistent with this Act for ascertaining and determining income liable to assessment, for preventing the disclosure of particulars contained in documents delivered or produced with

* As to exemption from liability to assessment, see notification referred to in footnote to s. 6, *supra*.

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respect to assessments under Part IV, and, generally, for carrying out the purposes of this Act, and may delegate to a Local Government the power to make such rules so far as regards the territories subject to that Government.

(2) In making a rule for preventing the disclosure of any particulars referred to in sub-section (1), the Governor-General in Council may direct that a public servant committing a breach of the rule shall be deemed to have committed an offence under section 166 of the Indian Penal Code.

(3) But a person committing any such offence shall not be liable to be prosecuted therefor without the previous sanction of the Local Government.

(4) Rules made under this section shall be published in the official Gazette.

Miscellaneous.

Bar of suits in Civil Court.

39. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

40. All or any of the powers and duties conferred and imposed by this Act on a Collector or on a Commissioner of Division may be exercised and performed by such other officer or person as the Local Government appoints in this behalf. *

41. An officer or person exercising all or any of the powers of a Collector under this Act may, by notice, require any person to furnish a list, in the prescribed form, containing, to the best of his belief,—

(a) the name of every inmate or lodger resident in any house used by him as a dwelling-house or let by him in lodgings ;

(b) the name of every other person receiving salary or emoluments amounting to forty-one rupees ten annas and eight pies per mensem, or five hundred rupees per annum, or upwards, employed in his service, whether resident in any such house as aforesaid or not ; and

(c) the place of residence of such or those persons as are not resident in any such house, and of any inmate or lodger in any such house who has a place of residence elsewhere at which he is liable under this Act to be assessed and who desires to be assessed at that place.

42. An officer or person exercising all or any of the powers aforesaid may, by notice, require any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent to deliver or cause to be

Trustees and agents to furnish information as to beneficiaries and principals.

* For notifications investing certain political officers with powers under this section in respect of persons residing out of British India, see Western India Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1895 p. 18.

delivered a statement of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

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43. An officer or person exercising all or any of the said powers may, Trustees, etc., to furnish by notice, require a trustee, guardian, curator, information as to income. committee or agent, or a receiver or manager appointed by any Court in India, or a Court of Wards, Administrator-General or Official Trustee, to furnish such returns of income liable to assessment under Part IV as may be prescribed.

44. An officer or person exercising all or any of the said powers may, Obligation to furnish at the instance of any person respecting whose other information. assessment or the amount thereof any doubt exists, require any person to furnish such information as he deems to be necessary for the purpose of ascertaining facts relevant to the assessment or its amount.

45. A person required to furnish any information under section 41, Sections 176 and 177 of Penal Code to apply to requisitions for information. section 42, section 43 or section 44 shall be legally bound to furnish the same in such manner and within such time as may be specified in the requisition for the information.

46. (1) A notice under this Act may be served on the person therein named either by a prepaid letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866,* or by the delivery or tender to him of a copy of the notice

If a notice is served by registered letter, it shall be presumed to have been served at the time when the letter would be delivered in the ordinary course of post, and proof that the letter was properly addressed and put into the post shall be sufficient to raise the presumption that the notice was duly served at that time.

(3) If the notice is to be served otherwise than by registered letter, the service shall, whenever it may be practicable, be on the person named in the notice, or, in the case of a firm, on some member thereof, or, in the case of a Hindu undivided family, on the manager of the joint estate of the family :

(4) But when the person, member or manager cannot be found, the service may be made on any adult male member of his family residing with him ; and, if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person, firm or family therein named ordinarily resides or carries on business.

* See now the Indian Post Office Act 1898 (VI of 1898).

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47. (1) When a company or firm has several places of business in territories subject to different Local Governments, the Governor-General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be the principal place of business.

(2) When a company or firm has several places of business in the territories subject to a single Local Government, that Government may declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

(3) When a person has several places of residence in territories subject to different Local Governments, the Governor-General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(4) When a person has several places of residence in the territories subject to a single Local Government, that Government may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(5) The powers given by this section may be delegated to, and exercised by, such officers as the Governor-General in Council or the Local Government, as the case may be, appoints in this behalf.

48. Where a person is in respect of any period liable to the tax under this Act, he shall not in respect of that period be assessed to the pándharí tax levied in the Central Provinces under Act XIV of 1867,* or to the capitation-tax, or the land-rate in lieu thereof, levied in British Burma † under the Burma Land and Revenue Act, 1876.‡

49. Every person deducting, retaining or paying any tax in pursuance of this Act or of any arrangement under section 9, sub-section (2), in respect of income belonging to another person, is hereby indemnified for the deduction, retention or payment thereof.

50. All powers conferred by, or conferable under, this Act may be exercised from time to time as occasion requires.

* Printed, Central Provinces Code, Ed. 1891, p. 30.

† This reference to British Burma should now be read as referring to Lower Burma, see the Upper Burma Laws Act, 1886 (XX of 1886). s. 4, printed, Burma Code, Ed. 1889, p. 363.

Printed, Burma Code, Ed. 1889, p. 103.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

**Act II
of
1886.***(See section 2.)*

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
Act No. II of 1878 ..	The Northern India License Act, 1878.	So much as has not been repealed.
Act No. VI of 1880 ..	The Indian License Acts Amendment Act, 1880.	The whole.

ACTS OF THE GOVERNOR OF FORT SAINT GEORGE IN COUNCIL.

Act No. III of 1878 ..	The Madras License Act, 1878	So much as has not been repealed.
Act No. III of 1880 ..	An Act to amend Madras Act III of 1878, as amended by Act VI of 1880.	The whole.

ACT OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Act No. III of 1878 ..	The Bombay License Act, 1878 ..	So much as has not been repealed.
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ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Act No. II of 1880 ..	The Bengal License Act, 1880	The whole.
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**Act II
of
1886.**

THE SECOND SCHEDULE.

SOURCES OF INCOME AND RATES OF TAX.

(See section 4.)

FIRST COLUMN.

SECOND COLUMN.

Source of Income.

Rate of Tax.

PART I.

SALARIES AND PENSIONS.

1. Any salary, annuity, pension or gratuity paid in British India to or on behalf of any person residing in British India or serving on board a ship plying to or from British Indian ports, whether on account of himself or another person.

2. Any salary, annuity, pension or gratuity paid by the Government, or by a local authority established in the exercise of the powers of the Governor-General in Council in that behalf, to or on behalf of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty.

- (a) If the income amounts to Rs. 2,000 per annum, or Rs. 166-10-8 per mensem, or upwards—five pies in the rupee.
(b) If the income is less than Rs. 2,000 per annum, or Rs. 166-10-8 per mensem—four pies in the rupee.

PART II.

PROFITS OF COMPANIES.

Profits of a company .. | Five pies in the rupee on the whole of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then on the whole of the nett profits so made during the year ending on the said thirty-first day of March.

THE SECOND SCHEDULE—*continued.***Act II
of
1886.**

FIRST COLUMN.

SECOND COLUMN.

Source of Income.

Rate of Tax.

PART III.**INTEREST ON SECURITIES.**

Interest becoming due on or after the first day of April, 1886, and payable in British India on—

promissory notes, debentures, stock or other securities of the Government of India (including securities of the Government of India whereon interest is payable out of British India by draft on any place in British India), or

(b) [*Rep. by Act XII of 1891.*]

(c) debentures or other securities for money issued by or on behalf of a local authority or company.

Five pies in the rupee on such interest, unless the owner of the security produces a certificate signed by the Collector that his annual income from all sources is less than Rs. 500, in which case no deduction shall be made from the interest, or unless he produces a like certificate that his income from all sources is less than Rs. 2,000, in which case the rate shall be four pies in the rupee.

PART IV.**OTHER SOURCES OF INCOME.**

Any source of income not included in Part I, Part II or Part III of this schedule.

(a) If the annual income is assessed at—			
not less than Rs. 500 but less than Rs. 750	the tax shall be Rs. 10		
750	1,000	15	
1,000	1,250	20	
1,250	1,500	28	
1,500	1,750	35	
1,750	2,000	42	

(b) If the annual income is assessed at Rs. 2,000 or upwards—five pies in the rupee on the income.

THE THIRD SCHEDULE.

FORM OF PETITION.

(See section

TO THE COLLECTOR OF

The *day of* 188 .
The petition of A. B. of

SHEWETH as follows—

1. Under Act No. 11 of 1886, your petitioner has been assessed in the sum of _____ rupees for the year commencing the first day of April, 188 .

2. Your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits, and the place or places at which such income or profits accrues or arise*] for the year ending the

day of _____ last were _____ rupees
[as will appear from the documents of which a list is presented herewith.*]

3. Such income and profits actually accrued and arose during a period of _____ months and _____ days [*here state the exact number of months and days in which the income and profits accrued and arose*].

4. During the said year your petitioner had no other income or profits.

Your petitioner therefore prays that he may be assessed accordingly [or that he may be declared not to be chargeable under the said Act].

(Signed) *A. B.*

Form of Verification.

I, A. R., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) *A. B.*

* These words are to be inserted if the petitioner relies on documents. The list, if the petitioner so wishes, may be presented in a sealed

ACT IV OF 1886.*

Act IV
of
1886.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JANUARY 1886.

An Act to amend section 265 of the Indian Contract Act,

WHEREAS it is expedient to amend section 265 of the Indian Contract Act, 1872 ; It is hereby enacted as follows :—

New section substituted
for section 265, Indian Con-
tract Act.

1. For section 265 of the said Act the fol-
lowing shall be substituted, namely :—

“ 265. Where a partner is entitled to claim a dissolution of partnership,
or where a partnership has terminated, the Court
may, in the absence of any contract to the con-
trary, wind up the business of the partnership,
provide for the payment of its debts and distribute the surplus according to
the shares of the partners respectively.”

Winding up by Court on
dissolution or after termi-
nation.

2. [Repeal of part of section 213, Act XIV of 1882.] Rep. by the
Repealing and Amending Act, 1891 (XII of 1891).

* Short title. “ The Indian Contract Act (1872) Amendment Act, 1886, see the
Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1885, Part V, p. 135 ;
for Report of the Select Committee, see *ibid.*, 1886, Part IV, p. 47, and for Proceedings
in Council, see *ibid.*, 1885, Supplement, pp. 186 and 335, and *ibid.*, 1886, Supplement,
p. 204.

The Act is in force in Upper Burma (except the Shan States) as being part of the
original Act IX of 1872, declared in force there by the Burma Laws Act, 1898 (XIII of
1898), see s. 4 and the First Schedule.

The Act had been previously declared in force in the Town of Mandalay only, in
Upper Burma by the Upper Burma Laws Act, 1886 (XX of 1886), s. 6 (1), now repealed
by Act XIII of 1898. S. 1 of the Act has been declared in force in the Santhal
Parganas by the Santhal Parganas Settlement Regulation (III of 1872), s. 3 as amended
by the Santhal Parganas Laws Regulation, 1886 (III of 1886), s. 2, printed, Bengal
Code, Vol. I. Ed. 1889, p. 597.

This Act is in force in British Baluchistan as being part of the Indian Contract
Act, 1872 (IX of 1872), which was thereto applied, by the British Baluchistan Laws
Regulation, 1890 (I of 1890), see Baluchistan Code, Ed. 1890, p. 72.

Act VI
of
1886.

ACT VI OF 1886.

The Births, Deaths and Marriages Registration.

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**Act VI
of
1886.**

Act VI
of
1886.

ACT VI OF 1886.*

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1886.

An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes.

WHEREAS it is expedient to provide for the voluntary registration of births and deaths among certain classes of persons, for the more effectual registration of those births and deaths and of the marriages registered under Act III of 1872, or the Indian Christian Marriage Act, 1872, and of certain marriages registered under the Parsi Marriage and Divorce Act, 1865, and for the establishment of general registry offices for keeping registers of those births, deaths and marriages :

And whereas it is also expedient to provide for the authentication and custody of certain existing registers made otherwise than in the performance of a duty specially enjoined by the law of the country in which the registers were kept, and to declare that copies of the entries in those registers shall be admissible in evidence ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called the Births, Deaths and Marriages Registration Act, 1886 ; and

(2) It shall come into force on such day† as the Governor-General in Council, by notification in the Gazette of India, directs.‡

2. This Act extends to the whole of British India§ and applies also within the dominions of Princes and States in India in alliance with Her Majesty, to British subjects in those dominions.

Local extent.

* For Statement of Objects and Reasons, see *Gazette of India*, 1885, Part V. p. 12 : for Report of the Select Committee, see *ibid.*, 1886, Part IV. p. 103 ; and for Proceedings in Council, see *ibid.*, 1885, Supplement, pp. 14 and 87, and *ibid.*, 1886, p. 290.

† The 1st October 1888, see *Gazette of India*, 1888, Part 1, p. 336.

‡ Sub-section (3) of s. 1, which was repealed by the Repealing and Amending Act, 1891 (XII of 1891), was as follows :—“(3) Any power conferred by the Act to make rules or to issue orders may be exercised at any time after the passing of this Act : but a rule or order so made or issued shall not take effect until the Act comes into force.”

§ It has been extended to the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see *Calcutta Gazette*, 1889, Part I, p. 176. It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation (I of 1880), s. 3, printed, Baluchistan Code, Ed. 1890, p. 69.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4. It had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1888, Part I, p. 528.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

“sign” includes mark, when the person making the mark is unable to write his name :

“prescribed” means prescribed by a rule made by the Governor-General in Council under this Act : and

“Registrar of Births and Deaths” means a Registrar of Births and Deaths appointed under this Act.

Nothing in this Act, or in any rule made under this Act, shall affect any law heretofore or hereafter passed providing for the registration of births and deaths within particular local areas.

Saving of local laws.

Powers exerciseable from time to time.

5 All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS AND MARRIAGES.

Establishment of general registry offices and appointment of Registrars-General.

6. (1) Each Local Government --

(a) shall establish a general registry office for keeping such certified copies of registers of births and deaths registered under this Act, or marriages registered under Act III of 1872 (*to provide a form of marriage in certain cases*) or the Indian Christian Marriage Act, 1872, or, beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, under the Parsi Marriage and Divorce Act, 1865, as may be sent to it under this Act, or under any of the three last-mentioned Acts, as amended by this Act;* and

(b) may appoint to the charge of that office an officer, to be called the Registrar-General of Births, Deaths and Marriages, for the territories under its administration : †

(2) Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor-General in Council, establish two general

* For General Registry Offices appointed for (a) Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 465 ; (b) Burma, see *Burma Gazette*, 1897, Part I, p. 459 ; (c) North-Western Provinces and Oudh, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 121.

† For Registrars-General appointed for (a) Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 466 ; (b) Burma, see *Burma Gazette*, 1888, Part I, p. 459 ; (c) Central Provinces, see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 245 ; (d) Madras, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 208 ; (e) North-Western Provinces and Oudh, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 121.

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of
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registry offices and appoint two Registrars-General of Births, Deaths and Marriages for the territories under his administration; one of such general registry offices and of such Registrars-General being established and appointed for Sindh and the other for the other territories under the administration of the Governor of Bombay in Council.

7. Each Registrar-General of Births, Deaths and Marriages shall cause Indexes to be kept at indexes of all the certified copies of registers sent general registry office. to his office under this Act, or under Act III of 1872, the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, as amended by this Act, to be made and kept in his office in the prescribed form.

8. Subject to the payment of the prescribed fees, the indexes so made Indexes to be open to shall be at all reasonable times open to inspection inspection. by any person applying to inspect them, and copies of entries in the certified copies of the registers to which the indexes relate shall be given to all persons applying for them.

9. A copy of an entry given under the last foregoing section shall be Copies of entries to be certified by the Registrar-General of Births, Deaths admissible in evidence. and Marriages, or by an officer authorized in this behalf by the Local Government,* and shall be admissible in evidence for the purpose of proving the birth, death or marriage to which the entry relates.

10. Each Registrar-General of Births, Deaths and Marriages shall Superintendence of Registrars by Registrar-General. exercise a general superintendence over the Registrars of Births and Deaths in the territories for which he is appointed.

CHAPTER III.

REGISTRATION OF BIRTHS AND DEATHS.

A.—Application of this Chapter.

11. (1) The persons whose births and deaths shall, in the first instance, Persons whose births be registrable under this Chapter are the follow- and deaths are registrable. ing, namely :—

(a) in British India, the members of every race, sect or tribe to which the Indian Succession Act, 1865, applies, and in respect of which an order under section 332 of that Act is not for the time being in force, and all persons professing the Christian religion ;

* For officer authorized to certify copies of entries given under s. 8 in (a) Assam, see p. 263 of the Assam Manual of Local Rules and Orders, Ed. 1893 ; (b) Bombay, see p. 466 of the Bombay List of Local Rules and Orders, Vol. I, Ed. 1896 ; (c) Madras, see p. 218 of the Madras List of Local Rules and Orders, Vol. I, Ed. 1898.

(b) in the dominions of Princes and States in India in alliance with Her Majesty, British subjects being members of a like race, sect or tribe, or professing the Christian religion :

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(c) But the Local Government, by notification in the official Gazette, may, with the previous approval of the Governor-General in Council, extend the operation of this Chapter to any other class of persons either generally or in any local area.

B.—Registration Establishment.

* 12. The Local Government may appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within the territories under its administration as it may define and, if it sees fit, for any class of persons within any part of those territories.

13. The Governor-General in Council may, by notification in the Gazette of India, appoint, either by name or by virtue of their office, so many persons as he thinks necessary to be Registrars of Births and Deaths for such local areas within the dominions of any Prince or State in India in alliance with Her Majesty as he may define and, if he sees fit, for any class of persons within any part of those dominions.†

14. Every Registrar of Births and Deaths shall be deemed to be a public servant within the meaning of the Indian Penal Code.

* As to Registrars appointed under this section for (a) Assam, see Assam List of Local Rules and Orders, Ed. 1893, p. 263 ; (b) Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. 465—467 ; (c) Burma, see Burma Laws List, Ed. 1897, p. 240 ; (d) Central Provinces, see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 246 ; (e) Madras, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 218 ; (f) North-Western Provinces and Oudh, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 121.

† For Registrars of Births and Deaths appointed under this section for (1) Native States in the Bombay Presidency, see Western India Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1895, p. 44 ; (2) States of Pudukkottai, Banganapalle and Sandur, see Gazette of India, 1889, Part I, p. 52 ; (3) State of Mysore, see Gazette of India, 1889, Part I, p. 54, and *ibid.*, 1893, Part I, p. 381 ; (4) Hyderabad State, see Gazette of India, 1889 and 1890, Part I, pp. 621 and 468, respectively ; (5) Rampur and Tehri States, see Gazette of India, 1891, p. 424 ; (6) Kashmir and Jammu, see Northern India Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1891, p. 130 ; (7) Nepal, see Northern India Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1891, p. 145 ; (8) Central Provinces Feudatory States, see Central India Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1893, p. 26, and Gazette of India, 1895, Part I, p. 404 ; (9) States in the Central India Agency, see Central India Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1893, p. 51 ; (10) States in the Rajputana Agency, see Rajputana Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1891, p. 29, and Gazette of India, 1893, Part I, p. 158.

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of
1886.

15. (1) The Local Government or the Governor-General in Council, as the case may be, may suspend, remove or dismiss any Registrar of Births and Deaths.

(2) A Registrar of Births and Deaths may resign by notifying in writing to the Local Government or to the Governor-General in Council, as the case may be, his intention to do so, and, on his resignation being accepted by the Local Government or the Governor-General in Council, he shall be deemed to have vacated his office.

16. (1) Every Registrar of Births and Deaths shall have an office in the local area, or within the part of the territories or dominions, for which he is appointed.

(2) Every Registrar of Births and Deaths to whom the Local Government may direct this sub-section to apply shall attend at his office for the purpose of registering births and deaths on such days and at such hours as the Registrar-General of Births, Deaths and Marriages may direct, and shall cause to be placed in some conspicuous place on or near the outer door of his office his name, with the addition of Registrar of Births and Deaths for the local area or class for which he is appointed, and the days and hours of his attendance.

17. (1) When any Registrar of Births and Deaths to whom the Local Government may direct this section to apply,* not being a Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay, is absent, or when his office is temporarily vacant, any person whom the Registrar-General of Births, Deaths and Marriages appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, or such other officer as the Local Government appoints in this behalf, shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(2) When any such Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay is absent, or when his office is temporarily vacant, any person whom the Registrar-General of Births, Deaths and Marriages appoints in this behalf shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(3) The Registrar-General of Births, Deaths and Marriages shall report to the Local Government all appointments made by him under this section.

18. The Local Government shall supply every Registrar of Births and Deaths with a sufficient number of register books of births and of register books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of births and deaths.

* The section has been declared by the Government of Madras to apply to all Registrars appointed by that Government, under the notification issued under s. 12, *Madras List of Local Rules and Orders*, Vol. I, Ed. 1898, p. 218.

*C.—Mode of Registration.***Act VI
of
1886.**

19. Every Registrar of Births and Deaths, on receipt of notice of a birth or death within the local area or among the class for which he is appointed, shall, if the notice is given within the prescribed time and in the prescribed mode by a person authorized by this Act to give the notice, forthwith make an entry of the birth or death in the proper register book :

Duty of Registrar to register births and deaths of which notice is given.

Provided that—

- (a) if he has reason to believe the notice to be in any respect false, he may refuse to register the birth or death until he receives an order from the Judge of the District Court directing him to make the entry and prescribing the manner in which the entry is to be made ; and
- (b) he shall not enter in the register the name of any person as father of an illegitimate child, unless at the request of the mother and of the person acknowledging himself to be the father of the child.

Persons authorized to notice of birth.

20. Any of the following persons may give notice of a birth, namely :—

- (a) the father or mother of the child ;
- (b) any person present at the birth ;
- (c) any person occupying, at the time of the birth, any part of the house wherein the child was born and having knowledge of the child having been born in the house ;
- (d) any medical practitioner in attendance after the birth and having personal knowledge of the birth having occurred ;
- (e) any person having charge of the child.

Persons authorized to notice of death.

21. Any of the following persons may give notice of a death, namely :—

- (a) any relative of the deceased having knowledge of any of the particulars required to be registered concerning the death ;
- (b) any person present at the death ;
- (c) any person occupying, at the time of the death, any part of the house wherein the death occurred and having knowledge of the deceased having died in the house ;
- (d) any person in attendance during the last illness of the deceased ;
- (e) any person who has seen the body of the deceased after death.

22. (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar.

Entry of birth or death to be signed by person giving notice.

VI
16.

(2) Until the entry has been so signed, the birth or death shall not be deemed to be registered under this Act.

(3) When the birth of an illegitimate child is registered, and the mother and the person acknowledging himself to be the father of the child jointly request that that person may be registered as the father, the mother and that person must both sign the entry in the register in the presence of the Registrar.

23. The Registrar of Births and Deaths shall, on application made at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death.

24. (1) Every Registrar of Births and Deaths in British India shall send to the Registrar-General of Births, Deaths and Marriages for the territories within which the local area or class for which he is appointed is situate or resides, at the prescribed intervals, a true copy certified by him, in the prescribed form, of all the entries of births and deaths in the register book kept by him since the last of those intervals :

Provided that in the case of Registrars of Births and Deaths who are clergymen of the Churches of England, Rome and Scotland, the Registrar may, if so directed by his ecclesiastical superior, send the certified copies in the first instance to that superior, who shall send them to the proper Registrar-General of Births, Deaths and Marriages.

In this sub-section "Church of England" and "Church of Scotland" mean the Church of England and the Church of Scotland as by law established respectively; and "Church of Rome" means the Church which regards the Pope of Rome as its spiritual head.

(2) The provisions of sub-section (1) shall apply to every Registrar of Births and Deaths in the dominions of any Prince or State in India in alliance with Her Majesty, with this modification that the certified copies referred to in that sub-section shall be sent to such one of the Registrars-General of Births, Deaths and Marriages as the Governor-General in Council, by notification in the Gazette of India, appoints in this behalf.

25. (1) Every Registrar of Births and Deaths shall, on payment of the prescribed fees, at all reasonable times, allow searches and copies of entries in register books. searches to be made in the register books kept by him, and give a copy of any entry in the same.

(2) Every copy of an entry in a register book given under this section shall be certified by the Registrar of Births and Deaths, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

26. Notwithstanding anything in section 19, the Governor-General in Council may make rules * authorizing Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they are appointed.

Exceptional provision for registration of certain births and deaths.

D.—Penalty for False Information.

27. If any person wilfully makes, or causes to be made for the purpose of being inserted in any register of births or deaths, any false statement in connection with any notice of a birth or death under this Act, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for wilfully giving false information.

E.—Correction of Errors.

28. (1) If it is proved to the satisfaction of a Registrar of Births and Deaths that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, he may, subject to such rules * as may be made by the Governor-General in Council with respect to the conditions and circumstances on and in which errors may be corrected, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction.

(2) If a certified copy of the entry has already been sent to the Registrar-General of Births, Deaths and Marriages, the Registrar of Births and Deaths shall make and send a separate certified copy of the original erroneous entry and of the marginal correction therein made.

Correction of entry in register of births or deaths.

CHAPTER IV.

AMENDMENT OF MARRIAGE ACTS.

29. After section 13 of Act III of 1872 (*to provide a form of marriage in certain cases*) the following section shall be inserted, namely:—

Addition of new section after section 13, Act III of 1872.

“13A. The Registrar shall send to the Registrar-General of Births, Deaths and Marriages for the territories within which his district is situate, at such intervals as the Governor-General in Council, from time to time directs, a true copy certified by him, in such form as the Governor-General in Council, from time to time prescribes, of all entries made by him in the said marriage-certificate book since the last of such intervals.”

Transmission of certified copies of entries in marriage-certificate book to the Registrar-General of Births, Deaths and Marriages.

* For rules made under s. 26 conjointly with ss. 28 and 36, see *Gazette of India*, 1888, Part I, p. 336, and *ibid.*, 1894, Part I, p. 436.

VI

6.

Amendment of the Indian
Christian Marriage Act,
1872.

30. In the Indian Christian Marriage Act, 1872, the following amendments shall be made, namely :—

- (a) at the end of section 3, the words “ ‘ Registrar-General of Births, Deaths and Marriages ’ means a Registrar-General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886,” shall be added ;
- (b) for the words “ Secretary to the Local Government ” wherever they occur, and for the words “ Secretary to a Local Government ” in section 79, the words “ Registrar-General of Births, Deaths and Marriages ” shall be substituted ;
- * (d) in section 81, after the words “ Registrar-General of Births, Deaths and Marriages ” the words “ in England ” shall be added.

Addition of new section
after section 8 of the Parsi
Marriage and Divorce Act,
1865.

31. After section 8 of the Parsi Marriage and Divorce Act, 1865, the following section shall be inserted, namely :—

“ 8A. Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall, at such intervals as the Governor-General in Council from time to time directs, send to the Registrar-General of Births, Deaths and Marriages for the territories administered by the Local Government by which he was appointed a true copy certified by him, in such form as the Governor-General, from time to time prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.”

Transmission of certified
copies of certificates in
marriage register to Regis-
trar-General of Births,
Deaths and Marriages.

CHAPTER V.

SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

32. If any person in British India, or in the dominions of any Prince or State in India in alliance with Her Majesty, has

Permission to persons
having custody of certain
records to send them within
one year to Registrar-
General.

for the time being the custody of any register or record of birth, baptism, naming, dedication, death or burial of any persons of the classes referred to in section 11, sub-section (1), or of any register or record of marriage of any persons of the classes to which Act III of 1872 or the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, applies, and if such register or record has been made otherwise than in performance of a duty specially enjoined by the law of the

* Cl. (c), which amended s. 62 of the Indian Christian Marriage Act, 1872 (XV of 1872), was repealed by the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), s. 4 (2).

country in which the register or record was kept, he may, * [at any time before the first day of April, 1891.] send the register or record to the office of the Registrar-General of Births, Deaths and Marriages for the territories within which he resides, or, if he resides within the dominions of any such Prince or State as aforesaid, to such one of the Registrars-General as aforesaid as the Governor-General in Council, by notification in the Gazette of India, directs in this behalf.

33. (1) The Governor-General in Council may appoint so many persons as he thinks fit to be Commissioners for examining the registers or records sent to the Registrar-General of Births, Deaths and Marriages under the last foregoing section.

Appointment of Commissioners to examine registers.

(2) The Commissioners so appointed shall hold office for such period as the Governor-General in Council, by the order of appointment, or any subsequent order, directs.

34 (1) The Commissioners appointed under the last foregoing section shall enquire into the state, custody and authenticity of every such register or record as may be sent to the Registrar-General of Births, Deaths and Marriages under section 32 ;

Duties of Commissioners.

and shall deliver to the Registrar-General a descriptive list or descriptive lists of all such registers or records, or portions of registers or records, as they find to be accurate and faithful.

(2) The list or lists shall contain the prescribed particulars and refer to the registers or records, or to the portions of the registers or records, in the prescribed manner.

(3) The Commissioners shall also certify in writing, upon some part of every separate book or volume containing any such register or record, or portion of a register or record, as is referred to in any list or lists made by the Commissioners, that it is one of the registers or records, or portions of registers or records, referred to in the said list or lists.

35. (1) Subject to the payment of the prescribed fees, the descriptive list or lists of registers or records, or portions of registers or records, delivered by the Commissioners to the Registrar-General of Births, Deaths and Marriages shall be, at all reasonable times, open to inspection by any person applying to inspect it or them, and copies of entries in those registers or records shall be given to all persons applying for them.

Searches of lists prepared by Commissioners and grant of certified copies of entries.

* These words were substituted for the words " within one year from the date on which this Act comes into force " by the Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890 (XVI of 1890), s. 1.

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of
886.

(2) A copy of an entry given under this section shall be certified by the Registrar-General of Births, Deaths and Marriages, or by an officer or person authorized in this behalf by the Local Government,* and shall be admissible in evidence for the purpose of proving the birth, baptism, naming, dedication, death, burial or marriage to which the entry relates.

† 35A. (1) The Governor-General in Council, if he thinks fit, may, by notification in the Gazette of India, appoint more commissions ‡ than one for the purposes of this Chapter, each such commission consisting of so many and such members as he may, by a like notification, nominate thereto by name or by office, and having its functions restricted to the disposal, under this Act and the rules thereunder, of the registers or records sent under section 32 to such Registrar-General or Registrars-General as the Governor-General in Council may, by a like notification, specify in this behalf.

(2) If more commissions than one are appointed in exercise of the power conferred by sub-section (1), then references in this Act to the Commissioners shall be construed as references to the members constituting a commission so appointed.

CHAPTER VI.

RULES.

36. In addition to any other power to make rules impliedly or expressly conferred by this Act, the Governor-General in Council may make rules§—

(a) to fix the fees payable under this Act; ||

(b) to prescribe the forms required for the purposes of this Act;

* For officers appointed under s. 35 (2) for (1) Bombay, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 471; (2) Burma, *see* Burma Laws List, Ed. 1897, p. 242; (3) Madras, *see* Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 219.

† S. 35A was added by the Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890 (XVI of 1890), s. 2.

‡ For Commissioners appointed in (1) the Bombay Presidency, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 471; (2) Burma, *see* Burma Laws List, Ed. 1897, p. 242; (3) Madras, *see* Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 219.

§ As to rules made under this section conjointly with ss. 26 and 28, *see* footnote to s. 26, *supra*.

|| For fees prescribed for attendance at private residences in (1) Burma, *see* notification quoted in Burma Laws List, Ed. 1897, p. 242; (2) Madras, *see* notification quoted in Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 219.

For rules framed by the Government of India under this clause as to fees, *see* *Gazette of India*, 1894, Part I, p. 580.

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- (c) to prescribe the time within which, and the mode in which, persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice ;
- (d) to prescribe the registers to be kept and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar-General of Births, Deaths and Marriages true copies of the entries of births and deaths in the registers kept by them ;
- * (e) to prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records, to which they relate ;
- † (f) to prescribe the custody in which those registers or records are to be kept ; and
- † (g) generally, to carry out the purposes of this Act.

37. (1) The Governor-General in Council shall, before making rules under this Act, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor-General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under this Act shall be published in the Gazette of India, and the publication in the Gazette of India of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

* For rules for the guidance of Commissioners appointed under Chapter V, see *of India*, 1890, Part I, p. 745.

† For rules for the guidance of Commissioners appointed under Chapter V, framed with regard to the powers conferred by these clauses, see *Gazette of India*, 1890 and 1892, Part I, pp. 745 and 123, respectively.

t VII
of
1886.

ACT VII OF 1886.*

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1886.

An Act to amend the Indian Registration Act, 1877.

WHEREAS it is expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Registration Act, 1886 ; and

It shall come into force at once.

2. After clause (f) of section 17 of the Indian Registration Act, 1877, the following clause shall be inserted, that is to say :—

“(ff) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or”.

Addition to sections 17 and 89, and amendment of section 58 of same Act.

3. (1) After clause (l) of section 17 of the same Act the following clause shall be added, that is to say :—

“(m) orders granting loans under the Agriculturists' Loans Act, 1884, and instruments for securing the repayment of loans made under that Act.”

* For Statement of Objects and Reasons, see *Gazette of India*, 1885, Part V, p. 235 ; for Report of the Select Committee, see *ibid.*, 1886, Part IV, p. 106 ; and for Proceedings in Council, see *ibid.*, 1885, Supplement, pp. 898 and 1008. and *ibid.*, 1886, Supplement, p. 292.

This Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation (III of 1872). s. 3, as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886). s. 2, printed, Bengal Code, Vol. I, Ed. 1889, p. 597.

It is also in force in British Baluchistan as being part of Act III of 1877, which was declared in force, see schedules to the British Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890, p. 72.

In like manner the Act is in force in that part of the Khasi and Jaintia Hills District which is comprised within the limits of the Civil Station and Cantonment of Shillong [see *Gazette of India*, 1878, Part I, p. 662] and in the Mahal of Angul [see *Gazette of India*, 1887, Part I, p. 97.]

It is also in force in the Arakan Hill-tracts District [see *Burma Gazette*, 1886, Part I, p. 247], being a part of Act III of 1877.

(2) In section 58 of the same Act, for the words “ or a copy of a certificate under the Land Improvement Act, 1871,* sent by the Collector to be registered,” or, where the Land Improvement Loans Act, 1883, is in force, for the words “ or a copy of an order under the Land Improvement Loans Act, 1883, sent by the Collector to be registered,” there shall be substituted the following words, namely :—

“ or a copy sent to a registering officer under section 89.”

(3) After the second paragraph of section 89 of the same Act, the following paragraph shall be added, that is to say :—

“ Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.”

Further addition to section 17 of same Act.

4. After clause (m) of section 17 of the same Act as amended by this Act the following clause shall be added, that is to say :—

“ (n) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage.”

5. In the second paragraph of section 50 of the same Act, “ (ff) ” shall be inserted between “ (f) ” and “ (g), ” and for the word and letter “ and (l) ” the letters and word “ (l, (m) and (n) ” shall be substituted.

Addition to section 90, and amendment of section 91, of same Act.

6. (1) After clause (d) of section 90 of the same Act the following clause shall be inserted, that is to say :—

“ (e) notices given under section 74, or section 76, of the Bombay Land-revenue Code, 1879,† of relinquishment of occupancy by occupants, or of alienated land by holders of such land.”

(2) In section 91, for the word and letter “ and (c) ” the letters and word “ (c) and (e) ” shall be substituted.

(3) The said Act shall be construed as if the amendments made in it by this section had been made at the time the Act came into force.

* Repealed by the Land Improvement Loans Act, 1883 (XIX of 1883) and the Repealing and Amending Act, 1891 (XII of 1891).

† Printed, Bombay Code. Vol. II. Ed. 1896, pp. 326 and 327.

Act X
of
1886.

ACT X OF 1886.*

RECEIVED THE G.-G.'S ASSENT ON THE 12TH MARCH 1886.

An Act to amend the Code of Criminal Procedure, 1882,† and certain other Acts.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882,† and certain other Acts ; It is hereby enacted as follows :—

1—19. [*Amendment of certain sections of the Code of Criminal Procedure, 1882 (Act X of 1882).*] Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).

20. [*Amendment of Bombay District Police Act (Bombay Act VII of 1867.)*] Rep. by the Repealing and Amending Act. 1891 (XII of 1891).

Indian Penal Code.

21. (1) In the second clause of section 40 of the Indian Penal Code, between the figures “ 66 ” and “ 71 ” the figures “ 67 ” shall be inserted.

(2) In the second clause of section 64 of the same Code, after the word “ punishable ” the words “ with imprisonment or fine, or ” shall be inserted.

22. In section 75 of the same Code, for the words “ or to double the amount of punishment ” to the end of the section, the following shall be substituted, namely :—

“ or to imprisonment of either description for a term which may extend to ten years.”

* Short title, “ The Indian Criminal Law Amendment Act, 1886.” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons. see *Gazette of India*. 1885, Part V, p. 249 ; for Report of the Select Committee, see *ibid.*, 1886, Part IV, p. 10 ; and for Proceedings in Council, see *ibid.*, 1885, Supplement, pp. 1141 and 1180. and *ibid.*, 1886, Supplement, p. 417.

Ss. 21 to 25 inclusive have been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code. Vol. I, Ed, 1889. p. 597.

So much as it amends the Indian Penal Code and Act V of 1871, this Act is in force in Upper Burma (except the Shan States) as being part of those two original Acts declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898). Ss. 21 to 25 of the Act had previously been declared in force in Upper Burma (except the Shan States) by the Upper Burma Laws Act. 1886 (XX of 1886), now repealed by Act XIII of 1898.

† Repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

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Addition to section 216
of the Indian Penal Code.

23. After the first paragraph of section 216 of the same Code the following shall be inserted, namely :—

“ ‘ Offence ’ in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881,* or otherwise, liable to be apprehended or detained in custody in British India ; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.”

Substitution of new sections for section 225A of the Indian Penal Code, and repeal of section 651 of the Code of Civil Procedure.

24. (1) For section 225A of the same Code the following sections shall be substituted, namely :—

“ 225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both ; and

(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

“ 225B. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

(2) [*Repeal of section 651 of the Code of Civil Procedure (Act XIV of 1882).*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Prisoners Act, 1871.

25. *Rep. by Act III of 1900.*

* Printed, Supplement to the Collection of Statutes relating to India, Ed. 1881, p. 128.

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ACT XI OF 1886.

THE INDIAN TRAMWAYS.

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**Act XI
of
1886.**

ACT XI OF 1886.*

RECEIVED THE G.-G.'S ASSENT ON THE 12TH MARCH 1886.

An Act to facilitate the construction and to regulate the working of Tramways.

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways ; It is hereby enacted as follows .—

Preliminary.

Short title and commencement.

1. (1) This Act may be called the Indian Tramways Act, 1886 : and

(2) It shall come into force at once.

2. (1) It extends in the first instance to the whole of British India except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal.

Local extent.

(2) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council or the Lieutenant-Governor of Bengal may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.†

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “ local authority ” means a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund :

(2) “ road ” means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorized under this Act is, or is intended to be, laid, and includes the surface-soil and subsoil of a road, and the footway, berms, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road :

* For Statement of Objects and Reasons, see *Gazette of India*, 1885, Part V. p. 308 ; for Report of the Select Committee, see *ibid.*, 1886, Part IV. p. 131 ; and for Proceedings in Council, see *ibid.*, 1885, Supplement, p. 1544 ; and *ibid.*, 1886, Supplement, pp. 7 and 418.

† The Act has been extended to the whole of Bombay, except the city of Bombay and the town of Karachi and its suburbs, see *Bombay Gazette*, 1887, Part I, p. 899 ; it has also been extended to the City of Madras, see *Fort Saint George Gazette*, 1886, Part I. p. 750.

It has been declared in force in Upper Burma (except the Shan States) by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898).

Rangoon possesses a separate Act, the Rangoon Tramways Act, 1883 (XXII of 1883), Burma Code, Ed. 1889, p. 211.

Ibid., Lahore, see the Lahore Tramways Act, 1886 (I of 1886), Punjab Code, Ed. 1888, p. 258.

(3) "road-authority," in relation to a road, means—

(a) if a local authority maintains and repairs the road, then that authority ;

(b) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested ; and

(c) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government :

(4) "circle," in relation to a local authority or road-authority, means the area within the control of that authority :

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway :

(6) "order" means an order authorizing the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending or varying, that order :

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under this Act as to the construction, maintenance and use of the tramway, have devolved :

(8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway :

(9) "carriage," in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power :

(10) "toll" includes any charge leviable in respect of the use of a tramway :

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorized tolls :

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act :

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction :

(14) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act : and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

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Orders authorizing the Construction of Tramways.

Application for and consent necessary to making of order.

4. (1) The Local Government may make an order authorizing the construction of a tramway in a circle on application made—

- (a) by the local authority of the circle with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not itself the road-authority ; or
- (b) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority :

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make the order without the previous sanction of the Governor-General in Council.

(2) A local authority shall not make an application for an order or be * deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorizing the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed

6. (1) The Local Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorizing the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered

* For rules made under this sub-section conjointly with s. 24 (1) (j) for Burma, see the Burma Rules Manual, Ed. 1897, p. 154.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order* authorizing the construction of a tramway shall be published in the official Gazette in English, and in the other prescribed language or languages, if any; and that publication shall be conclusive proof that the order has been made as required by this section.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

Contents of order.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say:—

- (a) a period before the expiration of which the tramway shall not be commenced, and the conditions subject to which the local authority when it is not itself the promoter, may, within that period, elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;
- (b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;
- (c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the reinstating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work;
- (d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;

* For orders issued under this section in (1) the Bombay Presidency, see the Bombay List of Local Rules and Orders, 1896, Vol. I, pp. 472 and 478; (2) Burma, see *Burma Gazette*, 1891, Part I, p. 225; (3) the Madras Presidency, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 220; (4) North-Western Provinces and Oudh, see the North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 122.

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- (e) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted ;
- (f) the gauge of the tramway ; the rails to be used, and the mode in which, and the level at which, they shall be laid and maintained ; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Local Government may from time to time require ;
- (g) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter ; the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads ; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads ;
- (h) the application of material excavated by the promoter in the construction or maintenance of the tramway ;
- (i) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorized by the order, as may from time to time be necessary or convenient to the efficient working of the tramway ;
- (j) the powers which may from time to time be exercised by the Local Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway ; the notice (if any) to be given of the intended exercise of those powers ; the manner in which the powers shall be exercised ; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof ;
- (k) the conditions subject to which the promoter may from time to time interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes or other things as aforesaid ;
- (l) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause ;

- (m) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used ;
- (n) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public ;
- (o) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry ; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government : and the regulation of the traffic and of the levy of the tolls ;
- (p) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway ;
- (q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise ; and the conditions subject to which the local authority may be the transferee ;
- (r) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter ; and
- (s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.

(3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870,* in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter.

(4) The order shall imply the condition—

- (a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided ; and

* See now the Land Acquisition Act, 1894 (I of 1894).

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in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorized tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.

Further order **8. (1)** The Local Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.

(2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.

(3) The Local Government may, in its discretion, either grant or reject the application.

(4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.

9. (1) Subject to, and in accordance with, the provisions of this Act, **Power to authorize joint work by local authorities.** the Local Government may, on a joint application, or on two or more separate applications, make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case.

Cessation of powers given by an order. **10. (1)** If a promoter authorized by an order to construct a tramway—

(a) does not within the time specified in the order substantially commence the construction of the tramway, or

(b) having commenced the construction suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or

(c) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue :—

(i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the

time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed ;

(ii) as to so much of the tramway as is then completed, the Local Government may either permit, or refuse to permit, the powers given by the order to continue ;

(iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

Construction and Maintenance of Tramways.

Mode of formation of tramway.

11. A tramway shall be constructed and maintained in the manner provided by the order.

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it and certified it to be fit for such traffic.

13. Subject to the provisions of any order for the time being in force with respect to the matters mentioned in section 7, sub-section (2), clause (g), the road-authority and the promoter may from time to time enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

Traffic on Tramways.

14. (1) The promoter of a tramway shall, subject to the provisions of sub-section (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway :

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorized to use a tramway or railway to pass across a tramway constructed under this Act with carriage having wheels suitable to run on the rail thereof.

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(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway :

Provided—

(a) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter ; and

(b) that the Local Government may by an order authorize the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

15. (1) The promoter or lessee may demand and take, in respect of Tolls leviable by pro. the tramway, tolls not exceeding the limits specified moter or lessee. in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Local Government.

(2) A list of all the tolls authorized to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

16. (1) A person shall not be entitled to carry or to require to be Carriage of dangerous or carried, on a tramway constructed under this Act, offensive goods. any goods of a dangerous or offensive nature.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

Licenses to use Tramways.

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17. If, at any time after a tramway or part of a tramway has been for

Grant to third parties of
licenses to use tramway in
certain events.

three years opened for public traffic in a circle.
the local authority of the circle represents in
writing to the Local Government that the public
is deprived of the full benefit of the tramway or of the part thereof, the Local
Government may, if after considering any statement which the promoter or
lessee or both may desire to make, and after such further enquiry as it deems
necessary, it is satisfied as to the truth of the representation, grant a license
to any person to use the tramway conformably to this Act and to the order
and the rules made under this Act, subject to the following provisions,
namely :—

- (a) the license shall be for a period not less than one year or more
than three years from the date of the license, but the Local
Government may in its discretion renew it ;
- (b) the license shall be to use the whole of the tramway for the time
being opened for public traffic, or such part or parts of the
tramway as the Local Government, having regard to the cause
for granting the license, thinks fit ;
- (c) the license shall specify the number of carriages which the licensee
shall run upon the tramway, the mode in which, and times at
which, the carriages shall be run, the tolls to be paid to the pro-
moter or lessee by the licensee for the use of the tramway, and
the tolls, being those for the time being leviable by the pro-
moter or lessee, which the licensee may demand and take for
the use of his carriages ;
- (d) the licensee and his officers and servants shall permit one person,
duly authorized for that purpose by the promoter or lessee, to
travel free of toll in or upon each carriage of the licensee run
upon the tramway for the whole or any part of a journey ;
- (e) any provision of this Act, or of the order or rules made under this
Act, relating to the functions of a servant of a promoter or lessee
shall be construed, so far as may be, as referring to a servant of
the licensee ; and
- (f) the Local Government may revoke, alter or modify the license for
any cause sufficient in its opinion to warrant the revocation,
alteration or modification thereof. •

18. A licensee shall, on demand, give to an officer or servant authorized

Licensee to give to pro-
moter or lessee an account
of traffic.

in that behalf by the promoter or lessee an exact
account in writing, signed by the licensee, of the
number of passengers, or number or quantity of
goods, conveyed by any and every carriage used by him on the tramway.

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Discontinuance of Tramways.

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in reinstating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in reinstating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in reinstating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter.

Insolvency of Promoter.

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to

make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

Purchase of Tramways.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

Future purchase of undertaking by local authority.

(a) within such limits of time as may be specified in this behalf in the order, or

(b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or

(c) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority; and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale or other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has

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been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway has been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

Working of Tramways owned by Local Authorities.

23. (1) When a local authority has under the authority of an order Lease of, or working of, completed a tramway, or has under the provisions tramway by local authority. of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway and of demanding and taking the authorized tolls.

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Local Government may approve

(3) Every lease made under this section shall imply a condition of re entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorized tolls in respect of the use of the carriages.

Rules.

*** 24.** (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

(a) as to the form in which an application for an order shall be made;

(b) as to the costs to be paid by an applicant in respect of an order, and the time when, and the place where, those costs shall be paid;

(c) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is pub-

* For rules made for Burma under clauses (b), (c), (d), (f), (g) and (h) of sub-section (1) of this section, see Burma Rules Manual, Ed. 1897, p. 155.

lished under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested; the application of the money or securities or the produce thereof to the discharge of any liability incurred by the promoter; and the forfeiture, repayment or return of the money or securities;

- (d) as to the plans and section of any works to be deposited by applicants for orders or by promoters;
- (e) for regulating the use of steam-power or any other mechanical power on a tramway;
- (f) as to any matter specified in section 7, sub-section (2), clauses (c), (d), (e), (j) and (k), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for;
- (g) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted;
- (h) as to the accidents of which report is to be made to the Local Government or as that Government directs;
- (i) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee; and
- (j) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act. * †

(2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules ‡ made by the Local Government under this Act for regulating—

- (a) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority;
- (b) the use of animal power on the tramway;
- (c) the distances at which carriages using the tramway are to be allowed to follow one after the other;
- (d) the stopping of carriages using the tramway, and the notice to be given to the public of their approach;

* As to rules made for Burma under this clause conjointly with s. 4 (2), see footnote to that section, *supra*.

† For rules made for Burma under this clause conjointly with s. 26 (2), see footnote to that section, *infra*.

‡ For instance of rules made under this power, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 122.

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- (e) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted ;
- (f) the traffic on roads along or across which the tramway is laid ;
- (g) the number of passengers which may be carried in any carriage ;
- (h) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee ; and
- (i) generally, the mode of use of the tramway.

(3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—

- (a) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to him : and
- (b) for regulating the travelling in any carriage belonging to him.

(4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section

25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend,—

- (a) if the authority making the rule is the Local Government, to two hundred rupees, and,
- (b) if that authority is a local authority or a promoter or lessee, to twenty rupees ;

and, when the breach is a continuing breach, with a further fine which may extend,—

- (c) if the authority making the rule is the Local Government, to fifty rupees, and,
- (d) if that authority is a local authority or a promoter or lessee, to five rupees,

for every day after the first during which the breach continues.

26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.*

* For rules as to mode of publication in Burma, see Burma Rules Manual, Ed. 1897, p. 157.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

Offences.

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

27. If a promoter—

(a) constructs or maintains a tramway otherwise than in accordance with the order, or

(b) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or

(c) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government or by the local authority or road-authority or by the District Magistrate or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

28. If any person without lawful excuse, the burden of proving which

Penalty for obstructing promoter in exercise of his powers.

shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or

maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

29. If any person without lawful excuse, the burden of proving which

Penalty for interfering with tramway.

shall lie upon him, wilfully does any of the following things, namely :—

(a) interferes with, removes or alters any part of a tramway constructed under this Act, or of the works connected therewith, or

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(b) places or throws upon or across any such tramway any wood, stone, refuse or other thing, or

(c) does anything in such a manner as to obstruct any carriage using any such tramway, or

(d) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (a), clause (b) or clause (c),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees.

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Local Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees.

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police-station he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

33. (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

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34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it :

Provided that a person shall not be punished twice for the same offence.

Settlement of Differences.

35. (1) If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

(2) Where the difference is—

(a) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or

(b) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases the referee shall be appointed by the Local Government.

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Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter or lessee under an award of a referee, the cost of the performance under this Act by the Local Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and reinstating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land-revenue due by the promoter or lessee or his surety (if any):

Provided that nothing in this section shall authorize the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

38. Any tolls due to a promoter, lessee or licensee from a passenger may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

Savings.

39. (1) Notwithstanding anything contained in this Act, or in an order or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act, or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

40. (1) Nothing in this Act, or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid.

(2) The road-authority, local authority or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

Nothing in this Act, or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic of a promoter, lessee or licensee as to the traffic of other persons.

Supplemental Provisions.

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default or through the act or default of any person in his employment, by reason or in consequence of any of his

- XI** 6. carriages or works, and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

43. For the purposes of this Act want of funds shall not be deemed
 Want of funds not a sufficient reason for default. to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

44. When a tramway is constructed under this Act within the limits of
 Power to exempt from municipal taxation. a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depôts of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

45. (1) The fund to or with the control or management of which the
 Application by local authorities of local funds to tramways. local authority of a municipality, cantonment or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable, subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in, or exercised by, a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

46. The Local Government may, with the consent of the local
 Extension of Act to existing tramways authority and road-authority and of the promoter and his lessee (if any), extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part of a tramway constructed, or authorized by the Local Government to be constructed, before the passing of this Act, and may withdraw any part of the Act or any rules so extended.

47. (1) A tramway of which the construction has not been authorized
 Prohibition of construction of tramways except under this Act. by the Local Government before the passing of this Act shall not, after the passing of this Act, be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section,

or after the passing of this Act maintaining or using for public traffic, otherwise than in pursuance of an order made under this Act, a tramway

which was not constructed, or authorized by the Local Government to be constructed, before the passing of this Act.

shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

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48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a local authority, the functions of that authority under this Act, or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government so directs, on the local authority of the circle in which the tramway has been included.

Transfer of control on exclusion of local area from circle of local authority.

49. [*Explanation and amendment of section 54 of Railway Act.*] *Rep. by the Indian Railways Act, 1890 (IX of 1890).*

Powers of Local Government exercisable from time to time.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

ACT XIII OF 1886.*

RECEIVED THE G.-G.'S ASSENT ON THE 19TH MARCH 1886.

An Act to consolidate and amend the law relating to Government Securities.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Securities Act, 1886 ; and

(2) It shall come into force on the first day of April, 1886.†

2. (1) On and from the day on which this Act comes into force, the Indian Securities Act, 1881, and the Indian Securities Act, 1885, shall be repealed.

Repeal.

* For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 49 ; for Report of the Select Committee, see *ibid.*, Part IV, p. 191 ; and for Proceedings in Council, see *ibid.*, Supplement, pp. 225, 233 and 669.

This Act has been declared in force in Upper Burma (except the Shan States) by the Upper Burma Laws Act, 1886 (XX of 1886), s. 6 (1). See now s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898) by which Act XX of 1886 has been repealed.

† Sub-section (3), which was as follows :—“ The power conferred on the Governor-General in Council by section 7, sub-section (1) may be exercised at any time after the passing of this Act ; but a notification issued in exercise of that power shall not take effect until the Act comes into force.” was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

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(2) But any authority conferred, notification issued, list published or rule or order made under either of those Acts shall, so far as may be, be deemed to have been conferred, issued, published or made under this Act.

Definitions.

3. In this Act—

(1) “Government security” includes promissory notes, debentures, stock certificates and all other securities issued by the Government of India or by any Local Government in respect of any loan contracted either before or after the passing of this Act, but does not include a stock-note or a currency-note : and

(2) “prescribed” means prescribed by rules made by the Governor-General in Council.

Notice of trust not receivable.

4. No notice of any trust in respect of any Government security shall be receivable by the Government.

5. (1) Notwithstanding anything in the Indian Contract Act, 1872, section 45, when a Government security is payable to two or more persons jointly and either or any of them dies, the security shall be payable to the survivor or survivors of those persons.

Right of survivors of joint payees of Government securities.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

6. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, the holder of the Government security shall not be said to indorse the security, or be called the indorser thereof, if, when he signs the same for the purpose of negotiation, he inscribes his signature for that purpose elsewhere than on the back of the security itself.

Prohibition of indorsements on allonges to Government securities.

7. (1) In the case of any public office to which the Governor-General in Council may, from time to time,* by notification in the Gazette of India, declare this subsection to apply, a Government security may be

Holding of Government securities by holders for the time being of public offices.

* The section has been declared applicable to the offices of (1) Managers of State Railways, see *Gazette of India*, 1886, Part I, p. 345; (2) Commanding Officers of Regiments, see *ibid.*, 1886, Part I, p. 382; (3) Chairman, Town Council, Bombay, and Municipal Commissioner, Bombay, see *ibid.*, 1886, Part I, p. 422; (4) Chairman, Harbour Trust Board, Madras, see *ibid.*, 1887, Part I, p. 186; (5) Registrar of any Presidency Small Cause Court, see *ibid.*, 1889, Part I, p. 346; (6) Assistant Commissioners of Salt and Abkari Revenue, Madras, see *ibid.*, 1890, Part I, p. 613; (7) Consulting Architect to Government, Madras, see *ibid.*, 1891, Part I, p. 465.

made or indorsed payable to or to the order of the holder for the time being of the office by the name of the office. **Act XIII of 1886.**

(2) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder for the time being of the office to the succeeding holder for the time being of the office on and from the date on which the latter takes charge of the office.

(3) When the holder for the time being of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office for the time being shall not be deemed to be or to have been invalid by reason only of the payee or indorsee being the holder for the time being of a public office by the name of the office.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

8. (1) Whenever the Governor-General in Council has issued, in respect of any loan, a certificate declaring the bearer thereof to be entitled to the portion of the loan therein expressed, or a coupon for any amount payable as interest on any portion of the loan, the title to the certificate or coupon may be transferred as if the certificate or coupon were a promissory note payable to bearer.

(2) On payment, by or on behalf of the Government, to the bearer of the certificate or coupon, of the amount expressed therein, at or after the date on which it becomes due, the Government shall be discharged as if the certificate or coupon were a promissory note payable to bearer.

9. A person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest, thereunder.

Indorser of Government security not liable for amount thereof.

10. (1) The signature of the officer of the Government of India authorized to sign Government securities on behalf of the Government may be printed, engraved or lithographed, or impressed by such other mechanical process as the Governor-General in Council may direct, on the securities.

Impression of signature on Government securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the officer.

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11. A person claiming to be entitled to a Government security as payable to him under an indorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

12. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the Gazette of India at such times as the Governor-General in Council may, from time to time, direct.

13. When a renewed security has been issued under section 11, or a duplicate security has been issued under section 12, the Government shall be discharged from all liability in respect of the original security of which the renewed or duplicate security has been issued—

Period after which the Government is released from liability in respect of original security.

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 12, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is the later.

Power of Governor-General in Council to make rules.

14. The Governor-General in Council may, from time to time, make rules * to prescribe—

(a) the mode in which payment of interest in respect of Government securities is to be recorded and acknowledged;

* For rules made under this section, see *Gazette of India*, 1888, Part I, p. 6, and *ibid.*, 1896, Part I, p. 628.

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- (b) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed ;
- (c) the fees to be paid in respect of applications under sections 11 and 12 ;
- (d) the form in which securities delivered for renewal are to be received ;
- (e) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 11 and 12 ;
- (f) the proof which is to be produced by persons applying for duplicate securities ;
- (g) the form and mode of publication of the notification mentioned in section 12, and the period after which interest may be paid or a duplicate security may be issued under that section ;
- (h) the nature and amount of the indemnity to be given by a person applying under section 12 for the payment of interest or the issue of a duplicate security ; and
- (i) generally, all matters connected with the grant of renewed and duplicate securities.

15. (1) The Governor-General in Council shall, before making rules under section 14, publish a draft of the proposed rules. Publication of drafts and rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor-General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under section 14 shall be published in the Gazette of India, and the publication in that Gazette of a rule purporting to be made under that section shall be conclusive proof that it has been duly made.

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1886.

ACT XVIII OF 1886.*

RECEIVED THE G.-G.'S ASSENT ON THE 24TH SEPTEMBER 1886.

An Act to amend Act XXXVI of 1858.

WHEREAS it is expedient to amend Act XXXVI of 1858 (*an Act relating to Lunatic Asylums*); It is hereby enacted as follows:—

New section inserted
after section 6.

1. After section 6 the following shall be inserted, namely:—

“6A. (1) Where a person found wandering at large who is deemed to be a lunatic, or where a person believed to be dangerous by reason of lunacy, is apprehended and sent to the Magistrate or the Commissioner of Police, or where, on report or information that a person deemed to be a lunatic is not under proper care and control or is cruelly treated or neglected, the Magistrate or the Commissioner of Police sends for him and then determines to proceed as prescribed in section 4 of this Act, the Magistrate or the Commissioner of Police, on the request of the medical officer, may, by order in writing, authorize the detention of the supposed lunatic for such time, not exceeding ten days, as, in the opinion of the Magistrate or the Commissioner of Police, may be necessary to enable the medical officer to form an opinion on the question whether or not the supposed lunatic is a person with respect to whom a certificate in the form A in the schedule to this Act ought to be signed.

* Short title, “The Indian Lunatic Asylums Act (1858) Amendment Act, 1886,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 357; for Report of the Select Committee, see *ibid.*, 1886, Part IV, p. 280; for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 7 and 1335.

The Act is in force in Upper Burma (except the Shan States) as being part of the original Act, XXXVI of 1858, declared in force there by the Burma Laws Act, 1898 (XIII of 1898), see s. 4 and the First Schedule.

The Act had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874, see *Burma Gazette*, 1888, Part I, p. 362, and *Gazette of India*, 1888, Part I, p. 371.

It has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see *Cultivator Gazette*, 1895, Part I, p. 510.

As being part of Act XXXVI of 1858, it has been declared in force in the Angul District by the Angul District Regulation, 1894 (I of 1894), s. 3; in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890, p. 69, and as being part of that Act it has been declared in force, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), in the Garo Hills, the Khasi and Jaintia Hills, the Naga Hills, the North Cachar Hills in the Cachar District and the Eastern Dvars in the Goalpara District, see *Gazette of India*, 1897, Part I, p. 299; in the Scheduled Districts in Ganjam and Vizagapatam, see *Gazette of India*, 1898, Part I, p. 869, and it has been similarly extended, by notification under s. 5, to the Scheduled District of Coorg, see *Gazette of India*, 1887, Part I, p. 144.

“(2) If the medical officer certifies further detention than has been authorized under sub-section (1) to be necessary to enable him to form his opinion on that question, the Magistrate or the Commissioner of Police may from time to time, by order in writing, authorize such further detention as he deems to be necessary :

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“ Provided that a supposed lunatic shall not be detained for the purpose of this section for a longer time than fourteen days from the date on which the first order authorizing his detention for that purpose is made.

“(3) The Executive Government may from time to time make rules as to the place of detention, and the care and treatment, of supposed lunatics detained under this section.”

2. To section 9 the words “subject to the provisions of any enactment for the time being in force” shall be prefixed.

New sections to follow section 17.

3. After section 17 the following shall be inserted, namely . . . * :—

“17B. The Governor-General in Council may from time to time, by order, direct, with respect to any part of British India which is not annexed to a presidency or, being annexed to the Presidency of Fort William, Fort Saint George or Bombay, is situated at a greater distance than three hundred miles from Calcutta, Madras or Bombay, respectively, that any lunatic asylum in British India named in the order shall be deemed for that part to be a lunatic asylum at the presidency for the purposes of this Act.”

* That part of s. 3 which related to the addition of s. 17A was repealed by the Repealing and Amending Act, 1891 (XII of 1891), a revised section having been enacted by s. 1 of the Indian Lunatic Asylums Act (1858) Amendment Act, 1889 (XX of 1889).

ACT II OF 1887.*

Act II
of
1887.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH JANUARY 1887.

An Act to amend the Sea Customs Act, 1878,†

WHEREAS it is expedient to amend the Sea Customs Act, 1878, . . . ; †
It is hereby enacted as follows :—

Sea Customs Act, 1878.

1. (1) In clause (b) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word “unless” the word “either” and after the word “destination” the following, namely :—

“or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port.”

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word “paid.” namely :—

“so paid or the spirit so delivered.”

2. In section 146 of the same Act, for the word “shall” in each of the two places where that word occurs, the word “may” shall be substituted.

3. (1) To section 148 of the same Act the following words shall be prefixed, namely :—

“Notwithstanding anything in the Indian Tariff Act, 1882,‡”.

(2) To the same section of the same Act the following shall be added, namely :—

“Provided that the Local Government may authorize the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed.”

* Short title, “The Sea Customs Act (1878) Amendment Act, 1887,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1887, Extraordinary, dated 10th January 1887, p. 1; for Proceedings in Council, see *ibid.*, Part VI, pp. 4 and 10.

This Act, so far as it amends the Sea Customs Act, 1878 (VIII of 1878), is in force in Upper Burma (except the Shan States) as being part of the original Act declared in force there by the Burma Laws Act, 1898 (XIII of 1898), see s. 4 and the First Schedule.

† The words “The Excise Act, 1881, and the Indian Tariff Act, 1882,” in the title and preamble have been omitted, as so much of this Act as relates to the Excise Act, 1881, was repealed by the Excise Act, 1896 (XII of 1896); and the Tariff Act, 1882 (XI of 1882), was repealed by the Tariff Act, 1894 (VIII of 1894).

See now the Tariff Act, 1894 (VIII of 1894).

Amendment of section
151.

4. (1) To section 151 of the same Act the following words shall be prefixed, namely :—

“ Notwithstanding anything in the Indian Tariff Act, 1882.”*

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1887.**

(2) After the same section of the same Act the following shall be added, namely :—

“ Provided that the Local Government may authorize the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed.”

5 & 6. [*Amending Excise Act, 1881.*] *Rep. by the Excise Act, 1896 (XII of*

7. [*Repeal of portion of preamble, Act XI of 1882.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

8. [*Addition to s 7, Act XI of 1882.*] *Rep. by the Tariff Act, 1894*

9. [*Amendment of second schedule, Act XI of 1882.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

* See now the Tariff Act, 1891 (VIII of 1891).

Act III
of
1887.

ACT III OF 1887.*

RECEIVED THE G.-G.'S ASSENT ON THE 14TH JANUARY 1887.

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows:—

New section substituted
for section 125 of the Evi-
dence Act.

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:—

“125. No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

“*Explanation.*— ‘Revenue-officer’ in this section means any officer employed in or about the business of any branch of the public revenue.”

* Short title, “The Indian Evidence Act (1872) Amendment Act, 1887,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 793; for Report of the Select Committee, see *ibid.*, 1887, Part IV, p. 7; and for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 1132 and 1155; and *ibid.*, 1887, Part VI, p. 11.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, I of 1872, declared in force there by the Burma Laws Act, 1898 (XIII of 1898).

Act III of 1887 had been previously extended there under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Burma Gazette*, 1888, Part I, p. 362, and *Gazette of India*, Part I, p. 371.

It has been declared in force in the Santhal Parganas, under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see *Calcutta Gazette*, 1895, Part I, p. 310.

As being part of Act I of 1872, it was declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890, p. 69; in the Angul District by the Angul District Regulation, 1894 (I of 1894); in the Kachin Hill-tracts, as regards Hill-tribes, by the Kachin Hill District Regulation, 1895 (I of 1895); and in the Chin Hills as regards Hill-tribes, by the Chin Hills Regulation, 1896 (V of 1896).

ACT VI OF 1887.*

Act VI
of
1887.

RECEIVED THE G.-G.'S ASSENT ON THE 11TH FEBRUARY 1887.

An Act to amend the Indian Companies Act, 1882.

WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows :—

Insertion of new section
after section 200.

1. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely :—

“ 200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts,—

“ (a) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date ;

“ (b) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant ; and

“ (c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the commencement of the winding-up.

“ (2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

* Short title, “ The Indian Companies Act (1882) Amendment Act, 1887,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 695 ; for Report of the Select Committee, see *ibid.*, 1887, Part IV, p. 14 ; for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 1010 and 1020, and *ibid.*, 1887, Part VI, p. 19.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, VI of 1882, declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898).

Act VI of 1887 had been previously extended there, under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Burma Gazette*, 1888, Part I, p. 362, and *Gazette of India*, 1888, Part I, p. 371.

As being part of Act VI of 1882, has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see *Gazette of India*, 1895, Part II, p. 9.

**Act VII
of
1887.**

“(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator.”

ACT VII OF 1887.*

RECEIVED THE G.-G.'S ASSENT ON THE 11TH FEBRUARY 1887.

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto ; It is hereby enacted as follows :—

Title. **1.** This Act may be called the Suits Valuation Act, 1887.

PART I.

SUITS RELATING TO LAND.

2. This Part shall extend to such local areas, and come into force therein on such dates, as the Governor-General in Council, by notification in the Gazette of India, directs.†

Extent and commencement of Part I.

3. (1) The Local Government may, with the previous sanction of the Governor-General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi. and paragraph x, clause (d).

Power for Local Government to make rules determining value of land for jurisdictional purposes.

2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area, and may prescribe different values for different places within the same local area.

* For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 791 ; for Report of the Select Committee, see *ibid.*, 1887, Part IV, p. 18 ; and for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 1131 and 1155, and *ibid.*, 1887, Part VI, pp. 16 and 21.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see s. 4 and the First Schedule.

It had previously been extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Burma Gazette*, 1888, Part I, p. 362, and *Gazette of India*, 1888, Part I, p. 371.

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890, p. 69.

† Part I of the Act has, under s. 2, been declared to extend to the Punjab, and to come into force therein on the first day of March 1889. see *Gazette of India*, 1889, Part I, p. 107.

Act VII
of
1887.

4. Where a suit mentioned in the Court-fees Act, 1870, section 7, paragraph iv, or Schedule II, article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

Making and enforcement of rules.

5. (1) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto.

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

6. On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873,* extends, section 14 of that Act shall be repealed as regards that part of those territories.

Repeal of section 14 of the Madras Civil Courts Act, 1873.

PART II.

OTHER SUITS.

Extent and commencement of Part II.

7. This Part extends to the whole of British India, and shall come into force on the first day of July, 1887.

8. Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court-fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.

Court-fee value and jurisdictional value to be the same in certain suits.

9. When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-

Determination of value of certain suits by High Court.

SUITS VALUATION.

VII matter were of such value as the High Court thinks fit to specify in this
of behalf.*
87.

10. [*Repeal of s. 32, Punjab Courts Act, 1884 (XVIII of 1884.)*
by the Repealing and Amending Act, 1891 (XII of 1891).]

PART III.

SUPPLEMENTAL PROVISIONS.

11. (1) Notwithstanding anything in section 578 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.

(a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of the first instance or lower appellate Court.

(3) If the objection was taken in that matter and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force.

* For rules as to valuation of certain classes of suits under this section in (1) the Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, p. 246; (2) Oudh, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 122.

(5) This section extends to the whole of British India, and shall come into force on the first day of July, 1887.

Proceedings pending at commencement of Part I or Part II.

12. Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

(a) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or

(b) with respect to any appeal arising out of any such suit.

**Act IX
of
1887.**

ACT IX OF 1887.*

RECEIVED THE G. G.'S ASSENT ON THE 24TH FEBRUARY 1887.

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement

1. (1) This Act may be called the Provincial Small Causes Courts Act, 1887.

* For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 8 ; for Report of the Select Committee, see *ibid.*, 1887, Part IV, p. 33 ; and for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 8 and 9, and *ibid.*, 1887, Part VI, p. 25.

Act IX of 1887 was declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (I of 1890). s. 3, printed, Baluchistan Code, Ed. 1890. p. 69.

It has been declared, under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Districts of Hazaribagh, Lohardaga and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singbhum, see *Gazette of India*, 1887, Part I, p. 582. The District of Lohardaga included at this time the District of Palamau, which was separated in 1894.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see s. 4 and the First Schedule.

It had previously been extended, under s. 5 of Act XIV of 1874, (a) to the town of Mandalay, see *Gazette of India*, 1888, Part I, p. 88 ; and (b) to the whole of Upper Burma (except the Shan States), see *Gazette of India*, 1897, Part I, p. 999.

For power to confer upon a Subordinate Judge or Munsif in Bengal, the North-Western Provinces and Assam, the jurisdiction of a Court of Small Causes under this Act, see the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887 (XII of 1887), s. 25, printed, Assam Code, Ed. 1887, p. 189.

Ss. 15, 32, 37, 38, 39 and 40 of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887 (XII of 1887), apply to Courts of Small Causes constituted under this Act, see Act XII of 1887, s. 40, printed, Assam Code, Ed. 1897, p. 189.

**Act IX
of
1887.**

(2) It extends to the whole of British India ; * and

(3) It shall come into force on the first day of July, 1887.

2. (1) [*Repeal of enactments.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) † All Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under Act No. XI of 1865‡ (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.

(3) Any enactment or document referring to Act No. XI of 1865‡ or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. Nothing in this Act shall be construed to affect ---
Savings.

(a) any proceedings before or after decree in any suit instituted before the commencement of this Act : or

(b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of village-munsifs or village-pancháyats under the provisions of the Madras Code, or of village-munsifs under the Dekkhan Agriculturists' Relief Act, 1879 ; or

(c) any local law or any special law other than the Code of Civil Procedure.

4. In this Act, unless there is something repugnant in the subject or context, " Court of Small Causes " means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.
Definition.

* As to definition of " British India," see Interpretation Act (52 and 53 Vict., c. 63), s. 18, cl. 4, *Gazette of India*, 1889, Part I, p. 545, and the General Clauses Act, 1897 (X of 1897), s. 3 (7).

† The word " But " was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

‡ Act XI of 1865 was repealed by s. 2 (1) of this Act.

CHAPTER 11.

CONSTITUTION OF COURTS OF SMALL CAUSES.

Act IX
of
1887

5. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency-town.*

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.†

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.‡

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

8. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(2) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

* For notifications constituting Provincial Small Cause Courts in (a) Bombay Presidency, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 488; (b) Burma, *see* Burma Rules Manual, Ed. 1897, p. 181, and *Burma Gazette*, 1898, Part I, p. 107; (c) North-Western Provinces, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 123.

† For notifications issued under cl. (2) of s. 5 for Courts in (a) Bombay Presidency, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. 489 and 492; (b) Burma, *see* Burma Rules Manual, Ed. 1897, p. 181; (c) Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, pp. 247 and 248; (d) North-Western Provinces and Oudh, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 122 and 123.

‡ For instance of a notification issued under this section, *see* Burma Rules Manual, Ed. 1897, p. 181.

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of
1887.

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section, differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

(2) If they differ on any matter other than a matter specified in sub-section (1), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him shall prevail.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.*

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

* For instance of a notification issued under this section, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 493.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers* of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.†

* For instance of a notification issued under this power, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 493.

† For notifications issued under this power in (a) Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 493; (b) Burma, see Burma Rules Manual, Ed. 1897, p. 181; this notification issued originally under Act XI of 1865 and was kept in force by s. 2 (2) of this Act.

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16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV.

PRACTICE AND PROCEDURE.

(1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code, . . * shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits :

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections (3) and (4), shall be tried by him and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

19. (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him :

* The words "as amended by this Act" were repealed by the Repealing and Amending Act, 1891 (XII of . . .)

Provided that where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

20. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorized in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

Passing of decrees by Registrar on confession.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

Execution of decrees by Registrar.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

22. When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourn-

Adjournment of cases by chief ministerial officer.

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ing the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

24. Where an order specified in section 588, clause (29), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

26. [*Amendment of the second schedule to the Code of Civil Procedure.*] *Rep. by the Presidency Small Cause Courts Law Amendment Act, 1888 (X of 1888), s. 4.*

27. Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

keep such registers, books and accounts as the High Court from time to time prescribes, and

comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.
Seal.

30. The Local Government² may, by order in writing, abolish a Court of Small Causes.
Abolition of Courts of Small Causes.

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court * or to be a Magistrate of any class or to hold any other public office.
Saving of power to appoint Judge of Court of Small Causes to other office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

32. (1) So much of Chapters III and IV as relates to—
Application of Act to Courts invested with jurisdiction of Court of Small Causes.

- (a) the nature of the suits cognizable by Courts of Small Causes,
- (b) the exclusion or the jurisdiction of other Courts in those suits,
- (c) the practice and procedure of Courts of Small Causes,
- (d) appeal from certain orders of those Courts and revision of cases decided by them, and
- (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

* For instances of notifications issued under this power, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 123.

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33. A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts.

Application of Act and Code to Court so invested as to two Courts.

34. Notwithstanding anything in the last two foregoing sections,—

- (a) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or
- (b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

35. (1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure as extended to Courts of Small Causes or in any other enactment for the time being in force.

Continuance of proceedings of abolished Courts.

36. In the third division of the second schedule to the Indian Limitation Act, 1877,—

(a) after No. 160 the following shall be inserted, namely :—

“160A. For a review of judgment by a Provincial Court of Small Causes, or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction. Ditto. The date of the decree or order.”

and (b) in No. 173, the words, figures and letter “No. 160A and” shall be inserted before the word and figures “No. 162.”

Amendment of Indian Limitation Act.

Publication of certain orders.

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

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THE FIRST SCHEDULE.

[ENACTMENTS REPEALED.]

Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

(See section 15.)

- (1) A suit concerning an act or order purporting to be done or made by the Governor-General in Council or a Local Government, or by the Governor-General or a Governor, or by a Member of the Council of the Governor-General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor-General in Council or a Local Government ;
- (2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office ;
- (3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office ;
- (4) a suit for the possession of immoveable property or for the recovery of an interest in such property ;
- (5) a suit for the partition of immoveable property ;
- (6) a suit by a mortgagee of immoveable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immoveable property for the redemption of the mortgage ;
- (7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immoveable property ;
- (8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto ;*
- (9) a suit concerning the liability of land to be assessed to land-revenue ;
- (10) a suit to restrain waste ;
- (11) a suit for the determination or enforcement of any other right to or interest in immoveable property ;
- (12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive periodically recurring right to discharge the functions of an office ;

* For notifications issued under this article for (1) the Madras Presidency, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 224 ; (2) Burma, see the Burma Rules Manual, Ed. 1897, p. 181.

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- (13) a suit to enforce payment of the allowance or fees respectively called *malikānu* and *haqq*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property or in an hereditary office or in a shrine or other religious institution ;
- (14) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870,* the whole or any part of the compensation ;
- (15) a suit for the specific performance or rescission of a contract ;
- (16) a suit for the rectification or cancellation of an instrument ;
- (17) a suit to obtain an injunction ;
- (18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution ;
- (19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure ;
- (20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure ;
- (21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian ;
- (22) a suit for property which the plaintiff has conveyed while insane ;
- (23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity ;
- (24) a suit to contest an award ;
- (25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India ;
- (26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure ;
- (27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets ;
- (28) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate ;
- (29) a suit—
 - (a) for a dissolution of partnership or for the winding up of the business of a partnership after its dissolution ;
 - (b) for an account of partnership transaction ; or
 - (c) for a balance of partnership-account, unless the balance has been struck by the parties or their agents ;
- (30) a suit for an account of property and for its due administration under decree ;
- (31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant ;
- (32) a suit for a general average loss or for salvage ;

* See now the Land Acquisition Act, 1894 (I of 1894).

- (33) a suit for compensation in respect of collision between ships ;
- (34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy ;
- (35) a suit for compensation—
 - (a) for loss occasioned by the death of a person caused by actionable wrong ;
 - (b) for wrongful arrest, restraint or confinement ;
 - (c) for malicious prosecution ;
 - (d) for libel ;
 - (e) for slander ;
 - (f) for adultery or seduction ;
 - (g) for breach of contract of betrothal or promise of marriage ;
 - (h) for inducing a person to break a contract made with the plaintiff ;
 - (i) for obstruction of an easement or diversion of a watercourse ;
 - (j) for illegal, improper or excessive distress or attachment ;
 - (k) for improper arrest under Chapter XXXIV of the Code of Civil Procedure or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV of that Code ; or
 - (l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause ;
- (36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower ;
- (37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce ;
- (38) a suit relating to maintenance ;
- (39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title ;
- (40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums ;
- (41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family in respect of a payment made by him on account of the property or family ;
- (42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property ;
- (43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land revenue or of a demand recoverable as an arrear of land-revenue ;
- (44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

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ACT X OF 1887.

THE NATIVE PASSENGER SHIPS.

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SCHEDULE—

ENACTMENTS REPEALED.

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ACT X OF 1887.*

RECEIVED THE G.-G.'S ASSENT ON THE 24TH FEBRUARY 1887.

An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to native passenger ships ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title.	1. This Act may be called the Native Passenger Ships Act, 1887.
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Extent and application. **2.** (*1*) It extends to the whole of British India, and applies—

- (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty ;
- (b) to all native Indian subjects of Her Majesty without and beyond British India ; and
- (c) subject to the exceptions mentioned in sub-section (2), to ships carrying as passengers more than thirty natives of Asia or Africa.

(2) But it does not apply—

- (i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or
- (ii) to any other ship forⁿ the time being in the service of Her Majesty, or
- (iii) to any ship-of-war belonging to any Foreign Prince or State, or
- (iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or
- (v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.

* Cf. the Merchant Shipping Act, 1852 (16 & 17 Vict., c. 84), since repealed by the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 834; for Report of the Select Committee, see *ibid.*, 1887, Part IV, p. 37; and for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 1189 and 1193, and *ibid.*, 1887, Part VI, p. 27.

On and from the 6th October 1896 Act X of 1887 ceased to apply to pilgrim ships. On that date the Pilgrim Ships Act, 1895 (XIV of 1895), which repeals Act X of 1887, so far as it affects such ships, was brought into force, see s. 4 of Act XIV of 1895 and *Gazette of India*, 1896, Part I, p. 800.

3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor-General in Council, declare all or any of the provisions of this Act to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

3. This Act shall come into force on such day as the Governor-General in Council, by notification in the Gazette of India, appoints.*

Commencement.

4. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

Repeal.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

5. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) "ship" means a ship to which this Act applies :

(2) "passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger :

(3) "long voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port :

(4) "short voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port :

(5) "voyage," when used without the prefix "long" or "short," means the whole distance between the ship's port or place of departure and her final port or place of arrival :

(6) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Act applies : and

* The Act came into force on 1st June 1887, see *Gazette of India*, 1887, Part I, p. 250.

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(7) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place * within British India other than a port or place appointed by the Local Government.

Ships to sail only from places appointed by the Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government† that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

Notice to be given of day of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

Power to enter on and inspect ship.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

Ship not to sail without two certificates.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

10. The first of the certificates (hereinafter called "certificate A"), shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

Contents of certificate A.

11. The second of the certificates (hereinafter called "certificate B") shall state—

Contents of certificate B.

(a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;

* For port appointed under this section in (1) Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxxvi; (2) Burma, see Burma Laws List, Ed. 1897, p. 253; (3) Madras, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 224.

† For officers appointed under this section in conjunction with ss. 17 and 37 and ss. 17, 37 and 51, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxxvi.

- (b) that she has the proper complement of officers and seamen ;
- (c) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules ;
- (d) that the master holds certificate A ;
- (e) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather ;
- (f) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act ; and
- (g) such other particulars, if any, as may be prescribed by those rules.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Grant of certificates.

13. Where the master of a ship produces to that officer either of the following certificates, namely :—

Substitute for certificate A.

- (a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or
- (b) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him

Survey of ship.

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whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make :

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

15. (1) The officer authorized to grant a certificate under this Act in Discretion as to grant of certificate. respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority* which that Government appoints in this behalf.

16. The master or owner shall post up in a conspicuous part of the Copy of certificates to be exhibited. ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

17. If an officer appointed in this behalf by the Local Government is Supply by passengers of their own food. satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

CHAPTER III.

RULES FOR SHORT VOYAGES.

18. (1) For seasons of fair weather a ship performing a short voyage Space to be available for passengers. shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger,

* For instance of such an appointment, see Madras List of Local Rules and Orders,

and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating—

Ship taking additional passengers at intermediate place.

- (a) the number of passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules :

Provided that if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer* as the Governor-General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

Deaths on voyage.

* For officers appointed under this section, see Notification No. 1353, dated 14th March 1889, *Gazette of India*, 1889, Part I, p. 153.

Act X
of
1887.

CHAPTER IV.

RULES FOR LONG VOYAGES.

21. (1) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 7.

24. (1) In either of the following cases, namely :—

(a) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or

(b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all

(2) All the foregoing provisions of this Act with respect to certificate B and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to be propelled by steam.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

Certain ships to carry medical officer.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

Ships carrying passengers to or from port in Red Sea to touch at Aden

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

Bill of health at Aden.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees conditioned—

Bond where ship clears for port in Red Sea.

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and

(b) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor-General in Council may make under this Act.

**Act X
of
1887.**

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea* unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(2) If in the opinion of the officer making an inspection under the section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

* As to inspection of ships and persons sailing to any port whatsoever, see s. 2 (2) (a) of the Epidemic Diseases Act, 1897 (III of 1897).

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which

shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

35. If a master, after having obtained any of the certificates mentioned

Penalty for fraudulent alteration in ship after certificate obtained.

in section 9, section 19 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered

state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

36. If a master without reasonable excuse, the burden of proving

Penalty for failing to supply passengers with prescribed provisions.

which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be

punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

37. (1). If a ship carrying passengers to or from any port or place in

Penalty for having excessive number of passengers on board.

British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner

shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

**Act X
of
1887.**

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill

of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both

**Act X
of
1887.**

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, it Penalty on master or medical officer of certain ships disobeying rules. any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any Penalty on master receiving passenger in contravention of section 30. person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both

Procedure.

Adjudication of offences, and levy of fine by distress on ship.

46. 1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found. Jurisdiction.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer. Authority to institute proceedings for penalties.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution. Application of fines.

**Act X
of
1887.**

50. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted :

Provided, that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer ;
- (b) it was made in the presence of the person accused ; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

51. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with Information to be sent to ports of embarkation and discharge. advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a Report of Consul. report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any

Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had

**Act X
of
1887.**

53. (1) The Governor-General in Council may make rules* consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters:—

Power for Governor-General in Council and Local Government to make rules.

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (c) the licensing and appointment of medical officers in cases where they are required by this Act to be carried ;
- (d) the boats, anchors and cables to be provided on board ;
- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper deck ; and
- (j) generally, to carry out the purposes of this Act.

(2) The Local Government may, with the previous sanction of the Governor-General in Council, make rules† consistent with this Act to regulate, in the case of any ship or class of ships,—

- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf ; and
- (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

* See Notification No. 1354, dated 14th March 1889, *Gazette of India*, 1889, Part I, p. 154.

† For rules made under this section for Bombay, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, p. cxxvi.

**Act X
of
1887.**

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

54. The Local Government shall appoint* such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Appointment of officers.

55. The Governor-General in Council may declare, by notification† in the Gazette of India, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather," and, for sailing-ships and steam-ships respectively, a "long voyage" and a "short voyage".

Power to declare what shall be deemed "seasons of fair weather" and "long voyages."

56. The Governor-General in Council may by order prescribe‡ in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers; and the order shall be alternative to, or override, as the Governor-General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

Power to prescribe space to be available for passengers.

57. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

Power to exempt ship from provisions of Act.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

* For instance of appointment made under s. 54, see Burma Laws List, Ed. 1897, p. 253.

† See Notifications Nos. 1355 and 2460, dated respectively 14th March and 16th May 1889, *Gazette of India*, 1889, Part I, pp. 161 and 287, respectively.

‡ See Notification No. 1356, dated 14th March 1889, *Gazette of India*, 1889, Part I, p. 161.

SCHEDULE.

ENACTMENTS REPEALED.

(See section 4.)

**Act XIII
of
1887.**

Number and year.	Title.	Extent of repeal.
VIII of 1876	Native Passenger Ships Act, 1876 ..	The whole.
XVII of 1883	Native Passenger Ships Act, 1883 ..	The whole.
VII of 1884	Indian Steam-ships Act, 1884 ..	Section 41.

ACT XIII OF 1887.*

RECEIVED THE G.-G.'S ASSENT ON THE 11TH MARCH 1887.

An Act to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

WHEREAS it is expedient to control the supply and use of electricity for lighting and other purposes ;

And whereas in the existing circumstances of the supply and use of electricity in India the exercise of that control by means of licenses or other like methods may be deferred, and it will suffice for the present to provide for the protection of person and property from the risks incident to such supply and use ;

It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Electricity Act, 1887.

(2) It shall extend to the whole of British India ; and

(3) It shall come into force on the first day of July, 1887.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “electricity” includes galvanism, magnetism, magneto-electricity and electro-magnetism :

(2) expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act :

* For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 954 ; for Report of the Select Committee, see *ibid.*, 1887, Part V, p. 58 ; and for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 1455 and 1607, and *ibid.*, 1887, Part VI, p. 37.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1891. Part I, p. 582.

**Act XIII
of
1887.**

(3) "purpose" includes any purpose except the transmission of a message: and

(4) "vessel" includes anything used for the conveyance by water of human beings or of property.*

Notice of intention to
supply or use electricity.

3 In either of the following cases, namely:—

(a) if a person intends to undertake the business of supplying electricity, or

(b) if a person intends to use electricity for any public purpose, or in any public place, or in any place where there is likelihood of the public being affected, or in a place in which one hundred or more persons are likely to be assembled, or in a place which is a factory within the meaning of the Indian Factories Act, 1881,

the person shall, one week at least before commencing the supply or use, give notice of his intention to the District Magistrate or, in a presidency-town, to the Commissioner of Police.

Power to make rules.

4. (1) The Governor-General in Council may make such rules† as he thinks expedient—

(a) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the generation or supply of electricity, and

(b) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

(2) The rules may, among other matters, authorize, or empower a Local Government or other authority to authorize, any officer, either by name or in virtue of his office, to enter, inspect and examine any place, carriage or vessel in which the officer has reason to believe any such appliances or apparatus to be.

(3) Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this section on the Governor-General in Council, and shall be of the same force as if enacted by this Act.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

5. If a person undertakes the business of supplying electricity, or uses electricity for any such purpose or in any such place as is referred to in section 3, without giving the notice required by that section, or infringes any rule under section 4, or

Penalties.

(Y. s. 3 (56), General Clauses Act, 1897 (X of 1897).

For rules made under the power conferred by this section, see Notification No. 495, dated 3rd December 1897, *Gazette of India*, 1897, Part I, p. 1112.

For procedure, see now s. 23, General Clauses Act, 1897 (X of 1897).

obstructs an officer in the exercise of his authority under any such rule to enter, inspect and examine any place, carriage or vessel, he shall be punished with fine which may extend to five hundred rupees, and if he continues so to supply or use electricity or infringe the rule or obstruct the officer, after notice in writing to desist from so doing has been given to him by the District Magistrate or, in a presidency-town, by the Commissioner of Police, he shall be further punished with fine which may extend to one hundred rupees for every day during which such supply, use, infringement or obstruction continues.

**Act XII
of
1887.**

6. The Governor-General in Council may, for the placing of appliances and apparatus for the supply of electricity for any purpose of the Government, confer upon any public officer any of the powers which the telegraph-authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

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Act XIV
of
1887.

ACT XIV OF 1887.

THE INDIAN MARINE.

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ACT XIV OF 1887.*

Act XIV
of
1887.

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JUNE 1887.

An Act for the better administration of Her Majesty's Indian Marine Service.

WHEREAS by the Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor-General of India in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861,† as amended by subsequent Acts, at meetings for the purpose of making laws and regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service :

Provided that—

- (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits ; and
- (b) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude ;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament ;

* For Statement of Objects and Reasons, see *Gazette of India*, 1887, Part V, p. 33 ; for Report of the Select Committee, see *ibid.*, p. 57 ; and for Proceedings in Council, see *ibid.*, Part VI, pp. 12, 15 and 46.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), p. 467, see *Gazette of India*, 1891, Part I, p. 582.

† Printed, Collection of Statutes relating to India, Ed, 1881. Vol. II, p. 695.

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And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor-General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service ;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act ;

It is hereby enacted as follows :—

CHAPTER I.**PRELIMINARY.**

Title and commence-

1. (1) This Act may be called the Indian Marine Act, 1887 ; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf. *

Definitions.

2. (1) In this Act, unless there is something repugnant in the subject or context,—

(a) “ person subject to this Act ” means a person who is employed or serves in, or belongs to, the [Royal Indian Marine Service (herein referred to as the ‘ the Indian Marine Service ’ or ‘ Her Majesty’s Indian Marine Service ’)] † and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act :

“ gazetted officer ” means a person who, by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

Commander,	Chief Engineer,
Lieutenant,	Engineer, or
Sub-Lieutenant,	Assistant Engineer :

(c) “ warrant-officer ” means a person who, by virtue of his appointment, is holding a position in the Indian Marine Service as—

Assistant Surgeon,	Carpenter,
Gunner,	Clerk, or

Engine-driver, first class :

* The Act came into force on 15th October 1887, see *Gazette of India*, 1887, Part I, p. 500.

† Substituted by Act I of 1899, s. 2, for ‘ the Indian Marine Service. ’

‡ Clauses (b), (c) and (d) have been substituted by Act I of 1899, s. 3.

* (d) "petty officer" means a person who is employed in the Indian Marine Service as— Act XIV
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General Mess Steward,	Carpenter's Crew, first class,
Chief Syrang of Lascars, first class,	Carpenter's Crew, second class,
Chief Syrang of Lascars, second class,	Plumber,
Syrang of Lascars, first class,	General Mess Butler, first class,
Syrang of Lascars, second class,	General Mess Butler, second class,
Sukkani,	Cook, first class,
Tindal of Lascars, first class,	Cook, second class,
Tindal of Lascars, second class,	Ship's Steward,
Engine-driver, second class,	Tide-watcher,
Syrang of Stokers, first class,	Kassab, first class,
Syrang of Stokers, second class,	Kassab, second class,
Tindal of Stokers, first class,	Pilot,
Tindal of Stokers, second class,	Chart-room Attendant,
Carpenter's Mate, first class,	Leadsman, or
Carpenter's Mate, second class,	Interpreter :

(e) "superior officer," used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses :

(f) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor-General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons :

(g) "enemy" includes a pirate or rebel :

(h) "Indian Marine Court" means an Indian Marine Court held under this Act :

(i) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor-General in Council : and

(j) "prescribed" means prescribed by rules made by the Governor-General in Council.

† (2) The Governor-General in Council may, by notification in the Gazette of India, vary any of the definitions ‡ in clauses (b), (c) and (d) of sub-

* See third footnote on p. 144.

† Sub-section (2) of s. 2 was substituted for the original sub-section by the Indian Marine Act, 1888 (XVII of 1888), s. 1.

‡ For notification varying the definitions of "gazetted officer," "warrant officer" and "petty officer" in clauses (b), (c) and (d) of sub-section (1), see *Gazette of India*, 1888, Part I, p. 512.

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section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression "superior officer" in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force.

3. (1) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on board ship or on shore, and the commanding or other prescribed officer shall then—

(a) cause to be read and explained to him the rules of the service,

(b) administer to him an oath of allegiance, and

(c) cause him to sign a roll.

(2) The rules, oath and roll shall be in prescribed forms.

4. In addition to any other rules * which may be made under this Act, the Governor-General in Council may, by notification in the Gazette of India, make rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

General power to make rules.

CHAPTER II.

OFFENCES AND PUNISHMENTS.

Misconduct in the Presence of the Enemy.

Misconduct of commanding officer in action.

5. If a commanding officer—

(i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or

(ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or

(iii) when capable of making a successful defence, surrenders his vessel to the enemy, or

(iv) in time of action improperly withdraws from the fight,

he shall,—

(a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;

(b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

* For rules under s. 4, see *Gazette of India*, 1887, Part I, p. 551.

Not pursuing the enemy
or not assisting a friend in
view.

6. If any officer subject to this Act—

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- (i) forbears to pursue the chase of any enemy beaten or flying, or
- (ii) does not relieve and assist a known friend in view to the utmost of his power, or
- (iii) improperly forsakes his station,

he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Delaying or discouraging

post or
watch.

- (i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
- (ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch.

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

8. If any person subject to this Act, other than a commanding officer,

Misconduct of subordi-
nate officers and men in
action.

does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

Corresponding, etc., with
the enemy.

9. If any person subject to this Act—

- (i) treacherously holds correspondence with or gives intelligence to the enemy, or
- (ii) fails to make known to the proper authorities any information which he may have received from the enemy, or
- (iii) relieves the enemy with any supplies,

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he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Neglect of Duty.

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Mutiny.

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned ; and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

(a) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned ;

(b) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;

(c) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act, shall suffer death or such other punishment as is hereinafter mentioned ; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

16. A person subject to this Act who wilfully conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against Her Majesty, or any practice, design or words tending to the hindrance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Concealing traitorous, mutinous or seditious practice, design or words.

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17. A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against, his superior officer, being in the execution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Striking or using violence to superior officer

Insubordination.

18. A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Disobedience or using threatening language to superior officer.

Desertion and Absence without Leave.

19. A person subject to this Act who—

Desertion.

(i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place; or

(ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place;

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, bounty, salvage, prize-money and allowances which may have been earned by him, and all annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor-General in Council.

20. A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

any person to

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evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt.

35. A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer imprisonment for a term which may extend to seven years.

Offences punishable by Ordinary Law.

36. If a person subject to this Act is guilty of any criminal offence which if committed in British India would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India :

Provided that, except as authorized by the Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

Punishments.

Schedule of punishments.

37. (1) The following punishments may be inflicted under this Act :—

- (a) death ;
- (b) penal servitude ;
- (c) dismissal with disgrace from the Indian Marine Service ;
- (d) imprisonment ;
- (e) dismissal from the Indian Marine Service ;
- (f) loss of seniority as an officer for a specified time or otherwise ;
dismissal from the vessel to which the offender belongs ;
severe reprimand, or reprimand ;
- (i) disgrating a warrant-officer or petty officer or any other person below that rank ;
- (j) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.

(2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations as to the infliction of punishments.

38. The following regulations shall apply to the infliction of punishments :—

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(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(2) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude.

(3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.

(5) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment.

(6) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years.

(7) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof.

When a sentence of imprisonment is passed on a warrant-officer or petty officer or any other person below that rank, it may be accompanied by a direction disrating the officer or person.

(9) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

39. Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

Scale of punishments.

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him, unless the trial takes place within three years from

Limitation of time for trials.

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the commission of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

CHAPTER III.

JURISDICTION AND POWERS.

41. Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating to criminal procedure for the time being* applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table :—

Section of this Act.	Marginal note.	Courts having jurisdiction.
Section 5	Misconduct of commanding officer in action.	
" 6	Not pursuing the enemy or not assisting a friend in view.	
" 7	Delaying or discouraging action or service or deserting post or sleeping on watch.	Criminal Courts and Indian Marine Courts
" 8	Misconduct of subordinate officers and men in action.	
" 9	Corresponding, etc., with the enemy	
" 10	Improper communication with the enemy ..	
" 11	Neglect of duty	Indian Marine Courts.
" 12	Mutiny accompanied by violence .. .	
" 13	Mutiny not accompanied by violence ..	
" 14	Inciting to mutiny	Criminal Courts and Indian Marine Courts.
" 15	Mutinous assembly or uttering seditious words.	
" 16	Concealing traitorous, mutinous or seditious practice, design or words.	
" 17	Striking or using violence to superior officer.	Indian Marine Courts.
" 18	Disobedience or using threatening language to superior officer.	
" 19	Desertion	Criminal Courts and Indian Marine Courts.
" 20	Inducing any person to desert	
" 21	Breaking out of vessel	
" 22	Absence without leave	
" 23	Drunkenness on board ship or on duty ..	Indian Marine Courts.
" 24	Cruelty or misconduct by officer	
" 25	Putting vessel to be lost or imperilled ..	
" 26	Unlawful taking of goods on board	
" 27	Embezzling public stores	
" 28	Arson	Criminal Courts and Indian Marine Courts.
" 29	Making false documents	
" 30	Malingering or misconduct in hospital ..	
" 31	Creating disturbance on account of complaints.	Indian Marine Courts.
" 32	Offences to the prejudice of good order and discipline not otherwise specified.	
" 33	Not assisting in arresting offenders	Criminal Courts and Indian Marine Courts.
" 34	Contempt of Court	
" 35	False evidence	
" 36	Offences punishable by ordinary law	Criminal Courts.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

Power to pass sentences.

42. Subject as aforesaid—

(a) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and

(b) an Indian Marine Court may pass any sentence authorized by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

43. (1) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor-General in Council may make, be summarily tried and punished by the commanding officer of the offender.

Jurisdiction and powers
of commanding officers

(2) Subject to the provisions of this Act and to such restrictions as the Governor-General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant-officer or petty officer or any other person below that rank.

44. A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

Place of trial.

45. Where such an offence has been committed by any person while subject to this Act, he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

Jurisdiction over person
ceasing to be subject to Act.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise, the following rules shall apply, namely:—

Case of person charged
with an offence cognizable
by a Criminal Court.

(a) any person subject to this Act shall, on application made to him by the Court, assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court;

(b) when no requisition is made under clause (a), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an

Case of person charged
with an offence cognizable
by an Indian Marine Court
or commanding officer.

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application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

48. When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor-General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

49. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer.

50. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section.

51. The Governor-General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court on a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

CHAPTER IV.

INDIAN MARINE COURTS.

Constitution of the Court.

Power to convene Indian Marine Court.

52. (1) The following authorities shall have power to convene Indian Marine Courts, namely:—

(a) the Governor-General in Council ;

the Director of Marine ;

(c) an officer empowered in that behalf by warrant of the Governor-General in Council :

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor-General in Council.

(2) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

* 53. (1) An Indian Marine Court shall consist of a president, and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant.

Composition of Indian Marine Court.

* (2) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of Commander, and two at least of the other officers composing the Court shall be of rank not below that of Commander.

* (3) Except in the case of an Indian Marine Court convened under section 52, sub-section (2), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander.

(4) A person acting as prosecutor shall not be a member of the Court.

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (1). †

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(7) When an Indian Marine Court, after the commencement of the trial, is reduced to a less number than three members, it shall be deemed to be dissolved.

(8) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub-section (2) or sub-section (3), as the case may be, shall take the place of the president without special appointment as such.

(9) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be dissolved.

* Sub-sections (1), (2) and (3) have been substituted by Act I of 1899, s. 4, sub-section (1) for the original sub-sections.

† This sub-section must be repealed there being now no proviso in sub-section (1) as amended by Act I of 1899. The proviso referred to ran in these words: "Provided that an Indian Marine Court convened under s. 52, sub-section (2), may be composed of the officer convening the same as president and the two graded officers next in seniority available for the duty."

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* (10) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding shall not give him seniority or precedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List.

* (11) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge-Advocate to every trial, who shall be, if possible, an officer of the Judge-Advocate-General's Department.

* (12) The authority convening an Indian Marine Court shall also appoint a person as Provost-Marshal, who shall be responsible for the arrest and safe custody of the prisoner or prisoners as directed, until the decision of the confirming authority is made known and communicated to him by the convening authority.

Procedure at the Trial.

Place of sitting of Indian
Marine Court.

54. An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land.

55. As soon as an Indian Marine Court is assembled, the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them ; if the prisoner objects to any member, the objection shall be decided by the Court ; if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub-sections (2), (3), (4) and (5) :

Challenge.

Provided that where the Court is composed as in the proviso to section 53, sub-section (1), and no officer qualified under that section is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection had been disallowed.

56. (1) Before an Indian Marine Court proceeds to try a prisoner, an oath shall be made by every member of the Court in the prescribed manner.

Oaths.

(2) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court.

57. When no specific charge is made against any person subject to this Act for, or in respect or in consequence of, the wreck, loss, destruction or capture of any vessel in the Indian Marine Service, all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court ; and any of them, when upon his trial, may be called upon to give evidence on oath touching

Trial of officers and crew
by one Court.

any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

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58. (1) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved:

Dissolution of Court on illness of prisoner.

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(2) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the Code of Criminal Procedure, 1882,* when an accused person is found to be of unsound mind and incapable of making his defence.

59. Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (7) or sub-section (9), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

Re-trial of prisoner after dissolution of Court.

60. The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

Clearing of Court.

61. Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote:

Decision of Court.

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner.

62. (1) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

Summoning witnesses.

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

63. When a person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him for trial by another Court

Summary punishment of certain contempts.

Marine Court, behaves with contempt to the Court,

* See now the same section of the Code of Criminal Procedure, 1898 (Act V of 1898).

Act XIV of 1887. for an offence under section 34. may, by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

Confirmation of Findings and Sentences.

64. (1) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority.

Submission of proceedings to confirming authority.

(2) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings.

65. A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority.

Confirmation of findings and sentences.

66. (1) The confirming authority shall ordinarily be the authority convening the Court.

Confirming authority.

(2) But if the Court was convened for the trial of a gazetted officer with the previous sanction of the Governor-General in Council, or if, in the case of a Court convened for the trial of any other person subject to this Act, the Governor-General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor-General in Council.

(3) The fact that the Governor-General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto.

67. (1) The confirming authority may send back the finding and sentence of an Indian Marine Court, or either of them, for revision; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence.

Powers of confirming authority.

(2) Where the finding only is sent back for revision, the Court may revise the sentence also.

(3) The confirming authority may, in confirming the sentence of an Indian Marine Court,—

(a) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court;

(b) suspend for such time as seems expedient the execution of the sentence;

(c) if the finding or sentence is informally expressed, vary the form thereof, or, if the sentence is invalid, substitute a valid sentence therefor.

(4) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice.

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Evidence.

68. The Indian Evidence Act, 1872, subject to such modifications therein as the Governor-General in Council may, by notification in the Gazette of India, direct,* shall apply to all proceedings before Indian Marine Courts.

Law of evidence applicable.

Preservation of Proceedings.

69. (1) The proceedings of all Indian Marine Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer, or than three years in the case of any other person.

Preservation of Indian Marine Court proceedings and grant of copies.

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

Power to make Rules respecting Procedure.

70. (1) The Governor-General in Council may make rules * to regulate the procedure of Indian Marine Courts, and for the purpose of carrying this Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

s re-

(2) The Governor-General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the Code of Criminal Procedure, 1882.†

‡ Supplemental.

‡70A. When an Indian Marine vessel is wrecked, lost, destroyed, or captured by the enemy, it shall, for the purposes of this Act, be deemed to remain an Indian Marine vessel until her crew are regularly removed into some other Indian Marine vessel or until a Court of Inquiry has been held into the cause of the wreck, loss, destruction, or capture thereof.

Provision in case of wreck, loss, destruction, or capture of Indian Marine vessel.

* For rules made under ss. 68 and 70 in conjunction with s. 4, to regulate the proceedings of Indian Marine Courts and certain other matters, see *Gazette of India*, 1896, Part I, p. 656.

† See now the Code of Criminal Procedure, 1898 (Act V of 1898).

Inserted by Act I of 1899, s. 5.

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CHAPTER V.

SUPPLEMENTAL CRIMINAL PROVISIONS.

Procedure of Criminal Courts beyond British India.

71. The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor-General in Council, by notification in the Gazette of India, directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

Procedure of Criminal
Courts beyond British India.

Arrests.

72. The following rules shall apply to persons subject to this Act when charged with offences under this Act :—

Arrest of offenders.

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(2) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(3) Any officer, or, if more officers than one are present, the senior of them, may order into custody any other person of inferior rank subject to this Act.

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority; and, as soon as may be, proceedings shall be taken for punishing the offender or discharging him from custody.

73. A commanding officer shall, upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with, but when he thinks the charge ought to be proceeded with, he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial.

Power of commanding
officer.

Execution of Sentences of Indian Marine Courts and Commanding Officers.

74. (1) Every term of imprisonment awarded in pursuance of the sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall, except as provided in sub-section (2), be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer.

Commencement of sen-
tences of imprisonment.

(2) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the

penal servitude, transportation or imprisonment to which he has previously been sentenced :

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Provided that when, under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

75. (1) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

(2) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison.

(3) A person transferred to a prison under sub-section (2) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court :

Provided that—

(a) when he is a person sentenced to imprisonment by his commanding officer, the commanding officer, or the Director of Marine, may, at any time by order in writing, direct that he be discharged ;

(b) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

Savings.

76. Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

Saving of authority of ordinary Courts.

77. Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

Minor punishments.

(a) to dismissal, loss of seniority, disrating, forfeiture or stoppages ; or to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

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Amendment of Acts.

78. [*Amendment of Act X of 1882, section 54 (Arrest of Deserters).*] *Rep., Code of Criminal Procedure, 1898 (Act V of*

Amendment of Chapter VII of the Penal Code (Offences relating to Army and Navy).

Application of foregoing sections to the Indian Marine Service.

79. After section 138 of the Indian Penal Code the following section shall be inserted, namely :—

“ 138A. The foregoing sections of this chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen.”

CHAPTER VI.

PROVISIONS OF CIVIL LAW.

Exemption from Process.

80. (1) A person below the position of gazetted officer shall not, while subject to this Act, be liable to be taken out of the Indian Marine Service by any process, execution or order of any Court of law, or otherwise, or be compelled to appear in person before any Court of law except in respect of the following matters, or one of them ; that is to say :—

(a) on account of a criminal charge or conviction ;

(b) on account of a decree for money, when the amount exceeds three hundred rupees over and above the costs of the suit.

(2) The Judge of any such Court may examine into any complaint made by any such person, or his superior officer, of the arrest of the person contrary to the provisions of this section, and may by order under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs as he might have recovered costs awarded to him by a decree against the person obtaining the process.

81. The clothes, equipment or arms of a person subject to this Act shall not be seized, nor shall the pay and allowances or any part thereof of any such person below the position of a gazetted officer be attached, in execution of any decree or order enforceable against him by any Court of Civil Judicature.

Property of Deceased Persons and Deserters.

Disposal of property of deceased persons and deserters.

82. The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts :—

(1) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made.

(2) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the

deceased, the commanding officer shall deliver over the property to that representative.

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(3) In the case of a deceased person, if the property is not dealt with under clause (2), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(4) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(5) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine.

(6) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed one thousand rupees and the Director of Marine or the prescribed authority thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made.

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service, and has not subsequently surrendered or been arrested.

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ACT XVIII OF 1887

RECEIVED THE G.-G.'S ASSENT ON THE 23RD SEPTEMBER 1887.

An Act to establish a University at Allahabad.

WHEREAS it has been determined to establish a University at Allahabad ;
It is hereby enacted as follows :—

Title and commence-
ment.

1. (1) This Act may be called the Allaha-
bad University Act, 1887 ; and

(2) It shall come into force at once.

Establishment and in-
corporation of University.

2. (1) A University shall be established at
Allahabad, and the Governor-General for the time
being shall be the Patron of the University.

(2) The University shall consist of a Chancellor, a Vice-Chancellor and
such number of Fellows as may be determined in manner hereinafter
provided.

(3) The University shall be a body corporate by the name of the Uni-
versity of Allahabad, having perpetual succession and a common seal, with
power to acquire and hold property, moveable or immoveable, to transfer the
same, to contract, and to do all other things necessary for or incidental to
the purposes of its constitution.

(4) The University shall come into existence on such day† as the Local
Government may, by notification in the official Gazette, appoint in this
behalf.

3. The Lieutenant-Governor of the North-Western Provinces for the
time being shall be the Chancellor of the Uni-
Chancellor. versity, and the first Chancellor shall be the

Honourable Sir Alfred Comyns Lyall, Knight Commander of the Most
Honourable Order of the Bath, Knight Commander of the Most Eminent
Order of the Indian Empire.

Vice-Chancellor.

4. (1) The Vice-Chancellor shall be such
one of the Fellows as the Chancellor may from
time to time appoint in this behalf.

(2) Except as provided in sub-sections (3) and (4), he shall hold office
for two years from the date of his appointment, and on the expiration of his
term of office may be re-appointed.

(3) If a Vice-Chancellor leaves India he shall thereupon cease to be
Vice-Chancellor unless the Chancellor otherwise directs.

* For Statement of Objects and Reasons, see *Gazette of India*, 1887, Part V,
p. 53 ; for Proceedings in Council, see *ibid.*, Part VI, pp. 43, 46 and 74.

† The 15th November 1887, see *North-Western Provinces and Oudh Gazette*, 1887,
Part I, p. 465.

(4) The Honourable Sir John Edge, Knight, Queen's Counsel, Chief Justice of the High Court of Judicature for the North-Western Provinces, shall be deemed to have been appointed the first Vice-Chancellor, and his term of office shall, subject to the provisions of sub-section (3), expire on the last day of December, 1

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Fellows.

5. (1) The following persons shall be Fellows, namely:—

- (a) all persons for the time being holding such offices under the Government as the Local Government may, by notification in the official Gazette, specify in this behalf;
- (b) persons whom the Chancellor may from time to time appoint by name as being eminent benefactors of the University, or persons distinguished for attainments in Literature, Science or Art, or for services to the cause of education; and
- (c) such persons as may from time to time be elected by the Senate of the University and approved by the Chancellor:

Provided that—

- (i) the whole number of the Fellows holding office under clauses (a), (b) and (c), exclusive of the Vice-Chancellor, shall not be less than thirty; and
 - (ii) the number of persons for the time being elected and approved under clause (c) shall not exceed the number for the time being appointed under clause (b).
- (2) A person appointed under clause (b), or elected and approved under clause (c), of sub-section (1) shall not, by succeeding to an office notified under clause (a) of that sub-section, cease to be a Fellow under clause (b) or clause (c) thereof, as the case may be.

6. (1) The offices specified in Part I of the schedule shall be deemed to have been specified in a notification issued under section 5, sub-section (1), clause (a); and

(2) The persons named in Part II of the schedule shall, except for the purposes of the second clause of the proviso to section 5, sub-section (1), be deemed to be Fellows appointed under clause (b) of sub-section (1) of section 5, or elected and approved under clause (c) of that sub-section.

7. (1) The Local Government may, by notification in the official Gazette, cancel or amend any portion of Part I of the schedule or any notification under section 5, sub-section (1), clause (a).

Vacation of office of Fel-

(2) The Chancellor may, with the consent of not less than two-thirds of the members of the Senate present at a meeting specially convened for the purpose, remove any Fellow appointed under clause (b) of sub-section (1) of section 5 or elected and approved under clause (c) of that sub-section.

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(3) If any Fellow leaves India without the intention of returning thereto, or is absent from India for more than four years, he shall thereupon cease to be a Fellow.

8. Every person who has filled the office of Patron or Chancellor shall be an honorary Fellow of the University, but shall not be a member of the Senate.

Honorary Fellows.

9. (1) The Chancellor, Vice-Chancellor and Fellows for the time being shall form the Senate of the University.

Constitution and powers
of Senate.

(2) The Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall provide for that management and exercise that superintendence in accordance with the rules for the time being in force under this Act

10. At every meeting of the Senate the Chancellor, or, in his absence, the Vice-Chancellor, or, in the absence of both, a Fellow chosen by the Fellows present at the meeting or by a majority of them, shall preside as Chairman.

Chairman at meetings of
Senate.

11. (1) When a question respecting the election of any person to be a Fellow under section 5, sub-section (1), clause comes before the Senate at a meeting, it shall be decided by a majority of the votes given thereat by the members in person or by proxy.

Proceedings at meetings
of Senate.

(2) Every other question which comes before the Senate at a meeting shall be decided by a majority of the votes of the members present.

(3) No question shall be decided at any such meeting unless ten members at the least, besides the Chairman, are present at the time of the decision.

(4) The Chairman and, subject to the foregoing provisions of this section respecting the mode of voting, every Fellow shall have one vote, and the Chairman, in case of an equality of votes, shall have a second or casting vote.

Appointment of Syndi-
cate, Faculties, examiners
and officers.

12. Subject to the rules for the time being in force under this Act, the Senate may from time to time—

- (1) appoint, or provide for the appointment of, a Syndicate, from among the members of the Senate ;
- (2) constitute Faculties of Arts and Law and, with the previous approval of the Governor-General in Council, of Science, Engineering and Medicine ;
- (3) appoint, suspend and remove, or provide for the appointment, suspension and removal of, examiners, officers and servants of the University ;
- (4) appoint, or provide for the appointment of, professors and lecturers, and suspend and remove, or provide for the suspension and removal of, professors and lecturers appointed by the Senate.

13. (1) The Syndicate shall be the executive committee of the Senate, **Act XVIII of 1887.**
 Functions and proceedings of Syndicate. and may discharge such functions of the Senate as it may be empowered to discharge by the rules for the time being in force under this Act.

(2) The Vice-Chancellor shall be a member of the Syndicate and shall preside as Chairman at every meeting of the Syndicate at which he is present.

(3) If the Vice-Chancellor is absent from any such meeting, the members present shall choose one of their number to be Chairman of the meeting.

(4) Every question at a meeting shall be decided by a majority of the votes of the members present.

(5) In case of an equality of votes the Chairman shall have a second or casting vote.

14. Subject to the rules for the time being in force under this Act, the Senate may confer on persons who have passed such examinations in the University and fulfilled such other conditions as may be prescribed under this Act—

(a) in the Faculty of Arts, the degrees of Bachelor and Master of Arts ;

(b) in the Faculty of Law, the degrees of Bachelor and Doctor of Laws ;

and, if empowered by the Governor-General in Council in this behalf,—

(c) in the Faculty of Science, the degrees of Bachelor and Doctor of Science ;

(d) in the Faculty of Medicine, the degrees of Bachelor and Doctor of Medicine ;

(e) in the Faculty of Engineering, the degrees of Bachelor and Master of Civil Engineering.

15. If the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of the members present at a meeting of the Senate and is confirmed by the Chancellor, the Chancellor may, on behalf of the Senate, confer on that person the degree of Doctor of Laws without requiring him to undergo any examination.

16. (1) The Senate may charge such reasonable fees for entrance into the University and continuance therein, for admission to the examinations of the University, for attendance at any lectures or classes in connection with the University, and for the degrees to be conferred by the University, as may be imposed by the rules for the time being in force under this Act.

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(2) Such fees shall be carried to a General Fee Fund for the payment of expenses of the University.

17. (1) The Senate shall, as soon as may be after the coming into existence of the University, and may from time to time thereafter, make rules consistent with this Act touching—
Power to make rules.

- (a) the mode and time of convening the meetings of the Senate and of transacting business thereat;
- (b) the appointment, constitution and duties of the Syndicate and the Faculties, and the election of Fellows under section 5, sub-section (1), clause (c);
- (c) the appointment, suspension, removal, duties and remuneration of examiners, officers and servants;
- (d) the appointment, duties and remuneration of professors and lecturers, and the suspension and removal of professors and lecturers appointed by the Senate;
- (e) the previous course of instruction to be followed by candidates for the examinations of the University;
- (f) the examinations to be passed and the other conditions to be fulfilled by candidates for degrees; and
- (g) generally, all matters regarding the University.

(2) All such rules shall be reduced into writing and sealed with the common seal of the University, and shall,—

- (a) in the case of the rules made under clause (e) or clause (f) of sub-section (1), after they have been confirmed by the Local Government and sanctioned by the Governor-General in Council, and
- (b) in the case of all other rules, after they have been sanctioned by the Local Government,

be binding on all members of the University or persons admitted thereto and on all candidates for degrees.

(3) If, on the expiration of eighteen months from the date on which the University comes into existence, rules have not been made and sanctioned or, as the case may be, have not been made, confirmed and sanctioned, under the foregoing provisions of this section, touching a matter mentioned in sub-section (1), the Local Government may, by notification in the official Gazette, make such rules touching that matter as it thinks fit.

Subject, in the case of rules touching any matter mentioned in clause (e) or clause (f) of sub-section (1), to the sanction of the Governor-General in Council, rules made by the Local Government under sub-section (3) shall be deemed to have been made and sanctioned, or, as the case may be, to have been made, confirmed and sanctioned, under sub-sections (1) and (2).

Examiners, officers and servants of the Senate to be deemed to be public servants.

18. (1) Every examiner, officer or servant appointed or remunerated by the Senate shall, for the purposes of the Indian Penal Code, be deemed to be a public servant. **Act XVII of 1887.**

(2) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (1), be deemed to include the Senate, and sections 162 and 163 of the Code shall be construed as if the words "or with any member of the Senate of the Allahabad University" were inserted after the words "with any Lieutenant-Governor."

19. It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act and the rules for the time being in force thereunder, and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, annul, by notification in the official Gazette, any such proceeding which is not in conformity with this Act and those rules.

20. All appointments made under section 4, all appointments made and elections approved under section 5, sub-section (1), clauses (b) and (c), all degrees conferred under sections 14 and 15, and all rules made under section 17, shall be notified in the local official Gazette.

21. (1) The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as that Government may direct.

(2) For the purposes of the examination and audit the auditor appointed by the Local Government may by letter require the production before him of any books, vouchers and other documents which he deems necessary, and may require any person holding or accountable for any such books, vouchers or documents to appear before him at the examination and audit or adjournment thereof and to answer all questions which may be put to him with respect thereto or to prepare and submit any further statement which the auditor considers necessary in explanation thereof.

(3) Any person who in the absence of reasonable excuse, the burden of proving which shall lie upon him, refuses or neglects to comply with a requisition under sub-section (2) shall be punished for every such refusal or neglect with fine which may extend to one hundred rupees.

(4) When the auditor has completed the examination and audit he shall report the result thereof to the Local Government, and that Government may thereupon disallow any payment made contrary to law and surcharge it on the person making or authorizing the making of the illegal payment.

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(5) If the amount of a payment so surcharged is not paid, as the Local Government directs, within fourteen days after demand being made therefor, the Secretary of State for India in Council may proceed by suit in any Court of competent jurisdiction to recover the amount from the person on whom the surcharge was made.

THE SCHEDULE.

(See section 6.)

PART I.

Offices to be deemed to have been specified under section 5, sub-section (1), clause —

The office of—

Bishop of Calcutta :
 Chief Justice of the High Court of Judicature for the North-Western Provinces ;
 Chief Commissioner of the Central Provinces ;
 Agent to the Governor-General in Rajputana :
 Chief Secretary to the Government of the North-Western Provinces and Oudh ;
 Secretary to the Government of the North-Western Provinces and Oudh in the
 Public Works Department :
 Commissioner of Allahabad :
 Commissioner of Lucknow ;
 Commissioner of Agra ;
 Director of Public Instruction, North-Western Provinces and Oudh ;
 Principal of the Muir Central College, Allahabad ;
 Principal of the Queen's College, Benares.

PART II.

Persons to be deemed to have been appointed, or to have been elected and approved, as Fellows under section 5, sub-section (1), clause (b) or clause (c) :—

1. The Hon'ble James Wallace Quinton, Bachelor of Arts, Bengal Civil Service, Member of the Board of Revenue of the North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Additional Member of the Council of the Governor-General for making Laws and Regulations, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

2. The Hon'ble William Tyrrell, Bachelor of Arts, Bengal Civil Service, Judge of the High Court of Judicature for the North-Western Provinces.

3. The Hon'ble Syed Ahmed, Khan Bahadur, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

4. The Hon'ble Syed Mahmud, Barrister-at-Law, Judge of the High Court of Judicature for the North-Western Provinces.

5. The Hon'ble Pundit Ajudhya Nath, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

6. Lieutenant-Colonel John Greenlaw Forbes, of the Royal Engineers, Fellow of the Calcutta University, Joint Secretary to Government, North-Western Provinces and Oudh, in the Public Works Department.

7. Surgeon-Major James Cleghorn, Doctor in Medicine, Civil Surgeon, Lucknow.

8. Raja Shiva Prasada, Companion of the Most Exalted Order of the Star of India.

9. Mortimer Sloper Howell, Esq., Bengal Civil Service, District Judge, North-Western Provinces, Companion of the Most Eminent Order of the Indian Empire, Fellow of the Calcutta University.

10. Raja Jai Kishan Das, Bahadur, Deputy Collector, North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University.

11. Raja Udai Pratab Singh, Talukdar of Bhinga in the Bahraich District.

12. Brigade-Surgeon Emanuel Bonavia, Doctor in Medicine, Civil Surgeon, Etawah.

13. Mahamahopadhyaya Bapu Deva Shastri, Sanskrit College, Benares, Companion of the Most Eminent Order of the Indian Empire.

14. John C. Nesfield, Esq., Master of Arts, Inspector of Schools, Oudh Division.

15. Kenneth Deighton, Esq., Bachelor of Arts, Inspector of Schools, Rohilkhand Division.

16. William Charles Bennett, Esq., Bengal Civil Service, Secretary to the Government of the North-Western Provinces and Oudh.

17. Michael J. White, Esq., Master of Arts, Principal, Canning College, Lucknow.

18. Alexander Thompson, Esq., Principal, Agra College.

19. Babu Pramoda Das Mittra, Honorary Magistrate, Benares.

20. Charles H. Hill, Esq., Barrister-at-Law, Allahabad.

21. William H. Wright, Esq., Bachelor of Arts, Professor of English Literature, Muir Central College, Allahabad.

22. W. N. Boutflower, Esq., Bachelor of Arts, Professor of Mathematics, Muir Central College, Allahabad.

23. Shams-ul-ulama Maulavi Zaka-ulla, Khan Bahadur, *Emeritus* Professor of Arabic, Muir Central College, Allahabad.

24. Samuel Alexander Hill, Esq., Bachelor in Science, Professor of Physical Science, Muir Central College, Allahabad, and Meteorological Reporter to the Government.

25. The Reverend John Hewlett, Master of Arts, Principal, London Mission College, Benares.

26. Pandit Lakshmi Shankar Misra, Master of Arts, Professor of Physical Science, Benares College.

27. Theodore Beck, Esq., Bachelor of Arts, Principal, Muhammadan Anglo-Oriental College, Aligarh.

28. Pandit Aditya Ram Bhattacharya, Master of Arts, Professor of Sanskrit, Muir Central College, Allahabad.

29. Munshi Newal Kishore, Lucknow.

30. Babu Bireshwar Mittra, Professor of Law, Benares College.

31. Lala Mukand Lal, Rae Bahadur, Honorary Assistant Surgeon to the Viceroy, Lecturer, Medical College, Agra.

32. Babu Ram Saran Das, Master of Arts, Fyzabad.

**Act XX
of
1887.**

ACT XX OF 1887.*

RECEIVED THE G.-G.'S ASSENT ON THE 21ST OCTOBER 1887.

An Act for the Protection of Wild Birds and Game.

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of birds and other game ;

And whereas it is expedient that Local Governments and cantonment-authorities as well as municipal-authorities should be empowered to make such rules ;

It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Wild Birds Protection Act, 1887.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

Definitions.

2. In this Act—

(1) “ municipal-authority ” means the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force :

(2) “ cantonment-authority ” means a cantonment-committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment : and

(3) “ wild bird ” includes a peacock and every bird of game.

3. (1) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment-authority of any municipality or cantonment. may from time to time make rules—

(a) defining the expression “ wild bird ” for the purposes of this Act in its application to the municipality or cantonment ;

* For Statement of Objects and Reasons, see *Gazette of India*, 1887, Part V, p. 52 ; for Report of the Select Committee, see *ibid.*, 1887, Part VI, p. 130 ; for Proceedings in Council, see *ibid.*, Part VI, pp. 42, 45 and 101. This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see *Gazette of India*, 1892, Part II, p. 505 ; it had also, previous to being declared in force there by Act XIII of 1898, been extended to Upper Burma, see *Gazette of India*, 1892, Part I, p. 94.

It has been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see *Calcutta Gazette*, 1895, Part I, p. 310.

(b) defining for those purposes the breeding season of any kind of wild bird ; and **Act XX of 1887.**

(c) prohibiting, subject to such exceptions and conditions as may be prescribed by the rules, the possession or sale during its breeding season within the municipality or cantonment of any kind of wild bird recently killed or taken, or the importation into the municipality or cantonment of the plumage of any kind of wild bird during such season.

(2) The authority making a rule under clause (c) of sub-section (1) may direct that a breach of it shall be punishable with fine which may extend, in the case of a first offence, to five rupees for every wild bird in respect of which or of the plumage whereof the breach of the rule has been committed, and, in the case of a subsequent offence, to ten rupees in respect of every such bird or plumage.

(3) A Court convicting any person of a breach of any such rule may order the confiscation of any wild bird or plumage in respect of which the breach was committed.

The power to make rules under this section is subject to the condition of the rules being made after previous publication and, in the case of rules made by a municipal authority or cantonment-authority, to the further condition of the rules being confirmed by the Local Government before they are published in the official Gazette under clause (5) of section 6 of the General Clauses Act, 1887.*

4. The Local Government, of its own motion or on the application of any municipal-authority or cantonment-authority, may, by notification in the official Gazette, declare the provisions of the last foregoing section with respect to wild birds to apply to any animals of game other than birds, and thereupon those provisions shall apply to such animals and their furs in like manner as they apply to wild birds and their plumage.

* See now cl. (5) of s. 23 of the General Clauses Act, 1897 (X of 1897).

Act II
of
1888.

ACT II OF 1888.*

RECEIVED THE G.-G.'S ASSENT ON THE 10TH FEBRUARY 1888.

An Act to provide for the levy of a Customs-duty on Petroleum.

WHEREAS it is expedient to provide for the levy of a custom-duty † on petroleum ; It is hereby enacted as follows :—

1. [*Addition to Schedule II, Act XI, 1882.*] *Rep. by the Indian Tariff Act, 1894 (VIII of 1894), Sch. I.*

And whereas the provisos to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable ; It is further enacted as follows :—

2. The rate of duty applicable to petroleum of which the bill-of-entry is delivered, within the meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act, after the passing of this Act, shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882, as amended by this Act.‡

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 2 ; for Report of the Select Committee, see *ibid.*, Part IV, p. 6 ; and for Debates in Council, see *ibid.*, Part VI, pp. 6, 21 and 35.

† For duty on petroleum, see now Art. 16, Sch. IV of the Indian Tariff Act, 1894 (VIII of 1894).

See now the Indian Tariff Act, 1894 (VIII of 1894), Sch. IV (16).

ACT III OF 1888.*

Act III
of
1888.

RECEIVED THE G.-G.'S ASSENT ON THE 17TH FEBRUARY 1888.

An Act to amend the Law relating to the Regulation of Police.

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to the presidency, province or place of the police-establishment of which they are members ; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Police Act, 1888.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

2. (1) Notwithstanding anything in Act XXIV of 1859 † (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), Act V of 1861 (*an Act for the Regulation of Police*) ‡[or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council], or any Act relating to the police in any presidency-town, the Governor-General in Council may, by notification in the Gazette of India, create a general police-district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V of 1861 of a police-force for service therein. §

(2) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under Act V of 1861, the Code of Criminal Procedure, 1882, || and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor-General in Council may make in this behalf, be discharged by the Governor-General in Council, or by such Local Government or other authority as the Governor-General in Council may appoint, § and the functions of

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 130 ; for Report of the Select Committee, see *ibid.*, 1888, Part IV, p. 8 ; and for Proceedings in Council, see *ibid.*, 1887, Part VI, p. 100, and *ibid.*, 1888, pp. 37 and 40.

The Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890 ; p. 69.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Districts of Hazaribagh, Lohardaga, Manbhum and Palamau, and in Pargana Dhalbhum and the Kolhan in the Singbhum District, see *Gazette of India*, 1895, Part I, p. 130.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there, by notification under s. 5 of Act XIV of 1874, see *Gazette of India*, 1892, Part I, p. 94.

† Printed, Madras Code, Ed. 1888, p. 139.

‡ These words were substituted for the words " the Bombay District Police Act, 1867," by the second schedule to the Repealing and Amending Act, 1891 (XII of 1891). See now the Bombay District Police Act, 1890 (Bombay Act IV of 1890), printed, Bombay Code, Vol. III, Ed. 1896, p. 488.

§ For notification issued under these powers see *Gazette of India*, 1892, 1896 and 1898, Part I, pp. 44, 374 and 130, respectively.

|| See now the Code of Criminal Procedure, 1898 (Act V of 1898).

**Act III
of
1888.**

the Inspector-General of Police, Deputy Inspectors-General, Assistant Inspectors-General, District Superintendents of Police and Assistant District Superintendents under Act V of 1861 and any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force.

(3) Subject to any orders which the Governor-General in Council may make in this behalf, members of a police-force enrolled for service in a general police-district created under sub-section (1) shall have within every part of any presidency, province or place of which any part is included in the district the powers, duties, privileges and liabilities which, as police-officers appointed under Act V of 1861, they have within the district.

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub-section may, subject to any orders which the Governor-General in Council may make in this behalf, exercise in any part of the local area in which he has the powers of a police-officer under sub-section (3) any of the powers which an officer in charge of a police-station has in that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor-General in Council may make in this behalf, a part of a presidency, province or place included in a general police-district under sub-section (1) shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency, province or place of which it forms part.

(6) For the purposes of this section, and subject to the provisions thereof, Act V of 1861 shall, notwithstanding anything in section 46 of that Act, be deemed to take effect throughout the whole of British India.

3. Notwithstanding anything in any of the Acts mentioned or referred

Employment of police-officers beyond the presidency, province or place to which they belong.

to in the last foregoing section, but subject to any orders which the Governor-General in Council may make in this behalf, a member of the police-establishment of any presidency, province or place

may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part and be vested with the powers, functions and privileges, and be subject to the liabilities, of a police officer belonging to that establishment.

* For notification issued under these powers, see *Gazette of India*, 1892, 1896 and 1898, Part I, pp. 44, 374 and 130, respectively.

† See now the Code of Criminal Procedure, 1898 (Act V of 1898).

ACT IV OF 1888.*

Act IV
of
1888.

RECEIVED THE G.-G.'S ASSENT ON THE 2ND MARCH 1888.

An Act to regulate Her Majesty's Indian Reserve Forces.

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces ; It is hereby enacted as follows :—

Title and commencement. **1.** (1) This Act, may be called the Indian Reserve Forces Act, 1888 ; and

(2) It shall come into force on such day as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf.†

Division of Reserve Forces into Active and Garrison Reserves. **2.** The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.

3. (1) A person belonging to the Active Reserve shall be liable to
Locality of service of Reserves. serve beyond the limits of British India as well as within those limits.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

4. The Governor-General in Council may make rules and orders for
Power to make rules for regulation of Reserve Forces. the government, discipline and regulation of the Indian Reserve Forces.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.
Liability of Reserve Forces to military law.

Punishment of certain offences by persons belonging to Reserve Forces. **6.** (1) If a person belonging to the Indian Reserve Forces—

(a) when required by or in pursuance of any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 22 ; and for Proceedings in Council, see *ibid.*, 1888, pp. 45 and 55.

This Act has been declared in force in British Baluchistan by the Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890, p. 69.

† The Act came into force on the 26th May 1888, see *Gazette of India* of same date, Part I, p. 239.

**Act IV
of
1888.**

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

(i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

7. Nothing in this Act or in any rule or order thereunder shall make
 Effect of Act on persons already in the Reserves. any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this

ACT V OF 1888.

**Act V
of
1888.**

INVENTIONS AND DESIGNS.

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ACT V OF 1888.*

Act V
of
1888.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH MARCH 1888.

An Act to consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs ; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Inventions and Designs Act, 1888.

(2) It shall extend to the whole of British India,† and

(3) It shall come into force on the first day of July, 1888.

Repeal.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Division of Act into Parts.

3. The remainder of this Act is divided into Parts, as follows :—

PART I.—INVENTIONS.

PART II.—DESIGNS.

PART I.

INVENTIONS.

Definitions.

4. In this Part, unless there is something repugnant in the subject or context,—

(1). “ invention ” includes an improvement :

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part I, p. 15 ; for Report of the Select Committee, see *ibid.*, 1888, Part V, p. 3 ; and for Proceedings in Council, see *ibid.*, 1887, Part VI, pp. 1 and 9, and *ibid.*, 1888, Part VI, pp. 44 and 63.

† The Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890, p. 69.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Burma Gazette*, 1888, Part I, p. 362, and *Gazette of India*, 1888, Part I, p. 371.

**Act V
of
1898.**

(2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor :

(3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not :

(4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorizing others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term :

(5) "inventor," "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be :

(6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture :

(7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance :

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor-General in Council to discharge the functions of the Secretary under this Act, and includes any Under Secretary, Assistant Secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorized by general or special order of the Governor-General in Council to discharge any of those functions.*

(9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure : and

(10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882,† in reference to proceedings against European British subjects.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor-General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further

* As to appointment of Secretary for purposes of the Act, see *Gazette of India*, 1898, Part I, p. 697.

† See now the Code of Criminal Procedure, 1898 (Act V of 1898).

particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor-General in Council may see fit to require from the applicant.

**Act V
of
1888.**

(4) If in any case it appears to the Governor-General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

6. (1) Upon an application under the last foregoing section the Governor-General in Council may, after such inquiry as he thinks fit, make an order authorizing the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1) the Governor-General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such inquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor-General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor-General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor-General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor-General in Council to be identical or so similar as to be practically identical, the Governor-General in Council may, in his discretion, authorize both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorizing the filing of his specification.

**Act V
of
1888.**

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor-General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the further schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorizing others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor-General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor-General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely :—

(a) the time for making a payment shall not in any case be enlarged for more than three months ; and

(b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

9. (1) A specification filed under this Part must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the

invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

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10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.*

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner of Burma,† and the others, if any, to such authorities as the Governor-General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin of the entry of each application, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in

* As to number of spare copies of specifications to be sent by applicants, see *Gazette of India*, 1892, Part I, p. 82.

† The Chief Commissioner is now Lieutenant-Governor of Burma, see Proclamation, dated 9th April 1897, in *Gazette of India*, 1897, Part I, p. 261.

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whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence *Provisions with respect to the register and book.* "for the time being in force,* be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

(2) The books kept under section 11 and section 35 of Act No. XV† of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the *Extension of exclusive privilege.* Governor-General in Council for an extension of the privilege for a further term.

(2) When an application is made under sub-section (1), the Governor-General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor-General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor-General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the

* See the Indian Evidence Act, 1872 (I of 1872).

† Act XV of 1859 was repealed by this Act.

privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor-General in Council thinks expedient.

17. (1) Subject to any conditions imposed under the last foregoing section—

(a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or

(b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor-General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor-General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor-General in Council for leave to file a memorandum pointing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

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(3) Upon the application the Governor-General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed :

Effect of amended specification

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

Bar to exclusive privilege in certain cases.

20. A person shall not be entitled to an exclusive privilege under this Part—

- (a) if the invention is of no utility, or
- (b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part, or
- (c) if the applicant is not the inventor thereof, or
- (d) if the original or any amended specification does not fulfil the requirements of this Part, or
- (e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or
- (f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any Part of British India or of the United Kingdom by means of a written publication.

Novelty of invention dependent on public use or knowledge thereof before application to file specification

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of

Effect of public use or knowledge of invention in fraud of inventor.

this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence :

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Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

Effect of temporary use of invention in public by inventor or by his leave.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

Effect of public use or knowledge of patented invention between application for patent and application to file specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

Effect of like public use or knowledge of unpatented invention.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor-General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used; or

Effect of use or public knowledge of invention after admission to an exhibition.

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made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor-General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

Cessation of exclusive privilege by order of the Government.

(2) It shall also cease if a breach of any condition on which the applicant was authorized to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor-General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

Cessation of exclusive privilege on revocation or expiration of patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

Suit for infringement of exclusive privilege.

The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility :

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be :

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some parts of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention not to have been acquired. Part by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original of any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or
- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery of receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

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32. The High Court may, irrespective of any provisions of the Code of Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

33. (1) Any person authorized by the Governor-General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor-General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor-General in Council.

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

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36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency : or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient ; and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

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(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

38. If, in a suit instituted in the District Court at any time within fourteen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

39. A Court making a decree in a suit under section 29 or section 38, or an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

Registration of cessation of exclusive privilege.

40. In the following cases, namely :—

a) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of

the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired ;

- (b) when an exclusive privilege acquired under this Part has been declared by the Governor-General in Council under section 27 to have ceased ;
- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege ;
- (d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section ;
- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38 ;
- (f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired ;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

41. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss, the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on or dismiss certain applications.

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43. If on the petition of any person interested it is proved to the Governor-General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

- Power for Governor-General in Council to require grant of licenses.**
- (a) the exclusive privilege is not being worked in British India, or
 - (b) the reasonable requirements of the public with respect to the invention cannot be supplied, or
 - (c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor-General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor-General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

45. If an applicant is absent from British India, an application for leave to file a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorized by him in writing in that behalf.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorized by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

Agents.

48. (1) There shall be paid in respect of the several proceeding specified in the fourth schedule the fees in that schedule prescribed.

Fees.

(2) The Governor-General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor-General in Council directs.*

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) The Governor-General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part,† and may alter or amend ‡ either of the forms in the second and third schedules.

Rules and forms.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

PART II.

DESIGNS.

Definitions.

50. In this Part unless there is something repugnant in the subject or context,—

(1) “ design ” means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself :

(2) “ copyright ” means the exclusive right to apply a design to an article :

(3) the author of any new and original design shall be considered the “ proprietor ” thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the “ proprietor,” and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the “ proprietor ” of the

* For notification as to manner of collecting fees payable under the Act, see *Gazette of India*, 1889, Part I, p. 182.

† For rules as to the manner of dealing with applications under the Act, see *Gazette of India*, 1898, Part I, p. 99.

For rules as to the preparation of applications and specifications filed under ss. 5, 8 and 51, and of drawings attached to such applications or specifications, see *Gazette of India*, 1895, Part I, p. 854.

‡ For notification amending the form of application in the second schedule to the Act, see *Gazette of India*, 1892, Part I, p. 143.

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design in the respect in which the same may have been so acquired, and to that extent, but not otherwise: and

(4) "Secretary," "District Court" and "High Court" have the same meanings as in Part I.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India, may apply to the Governor-General in Council for an order for the registration of the design.

Application for order for registration of design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

52. (1) Upon the application the Governor-General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

Registration in register of designs.

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

Acquisition of copyright.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

Marking registered designs.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor-General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition,

Effect of exhibiting unregistered designs at exhibitions.

the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

Mutation of names in register of designs.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

Suit for infringement of copyright.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

58. When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

Registration of cessation of copyright.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

Rectification of register of designs.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on, or dismiss, application for rectification of register.

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Application to this Part of
certain provisions of Part I.

61. The provisions of the following Part I,
namely :—

- (a) section 11, with respect to copies of specifications,
 - (b) section 14, with respect to the register of inventions and the matters entered therein, and
 - (c) section 47, with respect to the performance by an agent of any act required or authorized by that Part to be done by a principal,
- shall, so far as they can be made applicable, apply, respectively, to—
- (a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,
 - (b) the register of designs and the matters entered and documents referred to therein, and
 - (c) the performance by an agent of any act required or authorized by this Part to be done by a principal.

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that
Fees. schedule prescribed.

(2) The Governor-General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.*

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor-General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

63. The Governor-General in Council may make such rules and
Rules and forms. prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend the form in the fifth schedule.†

* As to notification issued under this sub-section, in conjunction with s. 48 (3), see *Gazette of India*, 1898, Part I, p. 143.

† As to rules made under the power conferred by this section in conjunction with s. 49, see *Gazette of India*, 1898, Part I, p. 854.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

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Number and Year.	Subject or Title.	Extent of Repeal.
XV of 1859	For granting Exclusive Privileges to In-ventors.	So much as has not been repealed.
XIII of 1872	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI of 1883	Protection of Inventions Act, 1883	The whole.
I of 1879	Indian Stamp Act, 1879	Article 48, Schedule I.

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR-GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for (*state the title of the invention*) he is the inventor thereof (*or, as the case may be, the executor, administrator or of the inventor*) ; and, to the best of his information and belief, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888. and no circumstance exists which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR-GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant (*or, as the case may be, A.B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom, dated and sealed as of the day of , and actually sealed on day of , for (*state the title of the invention*).

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2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(*Signature and verification.*)

THE FOURTH SCHEDULE.**FEES (*Inventions*).**

(*See sections 8, 15 and 48.*)

	RS.	A.	P.
(1) in respect of an application for leave to file a specification (section 5) .	10	0	0
(2) in respect of the filing of a specification (section 8)	30	0	0
(3) in respect of an extension of the time for filing a specification (section 8).. .. .	20	0	0
(4) in respect of the continuance of an exclusive privilege (section 8)—			
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof	50	0	0
(b) after the expiration of the fourth year and before the expira- tion of the fifth year from that date	50	0	0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date	50	0	0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date	50	0	0
(e) after the expiration of the seventh year and before the expira- tion of the eighth year from that date	50	0	0
(f) after the expiration of the eighth year and before the expira- tion of the ninth year from that date	100	0	0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date	100	0	0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date	100	0	0
(i) after the expiration of the eleventh year and before the expira- tion of the twelfth year from that date	100	0	0
(j) after the expiration of the twelfth year and before the expira- tion of the thirteenth year from that date	100	0	0

Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.

	RS.	A.	P.
(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—			
(i) if the enlargement does not exceed one month	10	0	0
(ii) if the enlargement exceeds one month, but does not exceed two months	25	0	0
(iii) if the enlargement exceeds two months	50	0	0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 15)	50	0	
(7) in respect of an order extending the term of an exclusive privilege (section 15)	100	0	0
(8) in respect of the continuance of an exclusive privilege of which the term has been extended (section 15)	100	0	0
			to be paid before the expiration of each year of the extended term :
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.			
(9) in respect of an application for leave to file a memorandum or amended specification (section 18)	20	0	0
(10) in respect of a petition to the Governor-General in Council for a compulsory license (section 43)	50	0	0
(11) for the inspection of any book or other document which is open to inspection under Part I	1	0	0
(12) for copies—			
(a) when the number of words copied does not exceed four hundred	1	0	0
(b) for every hundred words in excess of four hundred ..	0	4	0
(c) of drawings or photographs	cost according to agreement.		
(13) for certifying copies—			
for every hundred words	0	2	0

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(See sections 51 and 63.)

The application of (*here insert name, occupation and address*) for an order for the registration of a design under Part II of the Inventions and Designs Act, 1888.

1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.

2. To the best of his information and belief that design is, within the meaning of Part II of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.

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3. copies of (*drawings*), (*photographs*), (*tracings*) of the design accompany this application.

4. The following is a statement of the nature of the design (*here describe its nature*).

5. The applicant therefore applies for an order for the registration of the design pursuant to Part II of the Inventions and Designs Act, 1888.

(*Signature.*)

THE SIXTH SCHEDULE.

FEEs (*Designs*).

(*See section 62.*)

	RS.	A.	P.
(1) in respect of an application for an order for the registration of a design (section 51)	10	0	0
(2) in respect of a mutation of names in the register of designs (section 56)	5	0	0
(3) for the inspection of any book or other document which is open to inspection under Part II	1	0	0
(4) for copies—			
(a) when the number of words copied does not exceed four hundred	1	0	0
(b) for every hundred words in excess of four hundred	0	4	0
(c) of drawings, photographs or tracings	cost according to agreement.		
(5) for certifying copies—			
for every hundred words	0	2	0

ACT VI OF 1888.*

Act VI
of
1888.

RECEIVED THE G.-G.'S ASSENT ON THE 23RD MARCH 1888.

An Act to amend the law relating to Imprisonment for Debt.

WHEREAS it is expedient to amend the law relating to imprisonment for debt ; It is hereby enacted as follows :—

Title, commencement and extent. **1. (1)** This Act may be called the Debtors Act, 1888 ; and

(2) It shall come into force at once.

(3) The several portions thereof have the same local extent as the enactments to which they respectively relate.

Addition of sections after section 245 of the Code of Civil Procedure. **2.** After section 245 of the Code of Civil Procedure the following sections shall be inserted, namely :—

Prohibition of arrest or imprisonment of women in execution of decrees for money.

“ 245A. Notwithstanding anything in the last foregoing section or in any other section of this Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.

Discretionary power to permit other judgment-debtors to show cause against imprisonment. “ 245B. (1) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprisonment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.

* For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 505 ; for Report of the Select Committee, see *ibid.*, 1888, Part V, p. 24 ; for Debates in Council, see *ibid.*, 1886, Supplement, pp. 898 and 961, and *ibid.*, 1888, Part VI, pp. 47 and 68.

Ss. 2 to 8 of this Act have been declared in force in British Baluchistan by the Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890, p. 69.

S. 10 (1) of the Act has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam, see *Fort Saint George Gazette*, 1898, Part I, p. 666, and *Gazette of India*, 1898, Part I, p. 869.

This Act, so far as it amends the Code of Civil Procedure (Act XIV of 1882), is in force in the whole of Upper Burma (except the Shan States), the Code having been declared in force there by the Burma Laws Act, 1898 (XIII of 1898).

The Act (except ss. 9 and 10) had been previously extended to the Town of Mandalay in Upper Burma by notification under s. 5 of Act XIV of 1874, see *Burma Gazette*, 1888, Part I, p. 362, and *Gazette of India*, 1888, Part I, p. 371 ; as being part of the Code of Civil Procedure (Act XIV of 1882), it is now in force in the Municipality of Chai-bassa in the Singbhum District, see *Gazette of India*, 1896, Part I, p. 44 ; in the Porahat Estate in the same district, see *ibid.*, 1897, Part I, p. 1059.

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“(2) If appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor.”

Amendment of section 250 of the Code.

3. In section 250 of the said Code, between the word “shall” and the word “issue”, the following shall be inserted, namely :—

“subject to the provisions of sections 245A and 245B.”

Addition of new section after section 337 of the Code.

4. After section 337 of the said Code the following shall be inserted, namely :—

“337A. (1) When a judgment-debtor appears before the Court in obedi-

Proceedings on appearance of judgment-debtor in obedience to notice under section 245B, or after arrest in execution of decree for money.

ence to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable

by instalments, the amount of any instalment thereof, the Court may, upon such terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release, as the case may be.

“(2) Before making an order under sub-section (1), the Court may take into consideration any allegation of the decree-holder touching any of the following matters, namely :—

“*(a) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account ;

“(b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decree-holder in the execution of the decree ;

“(c) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors ;

“(d) his refusal or neglect to pay the amount of the decree or some part thereof when he has or since the date of the decree has had the means of paying it ;

(e) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (b) of this sub-section.

“(3) While any of the matters mentioned in sub-section (2) are being considered, the Court may in its discretion order the judgment-debtor to be

* Cf. the Debtors Act, 1869 (32 & 33 Vict., c. 62).

imprisoned, or leave him in the custody of an officer of the Court, or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

“(4) A judgment-debtor released under this section may be re-arrested.

“(5) If the Court does not make such an order as is mentioned in sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail.”

Addition to section 380
of the Code.

5. To section 380 of the said Code the following shall be added, namely :—

“On the application of any defendant in a suit for money in which the plaintiff is a woman, the Court may at any stage of the suit make a like order if it is satisfied that such plaintiff does not possess any sufficient immoveable property within British India independent of the property in suit.”

6. In section 640 of the said Code, after the words “from arrest in execution of civil process” the words “in any case in which the arrest of women is not prohibited by this Code” shall be added.

Amendment of section
640 of the Code.

7. In section 642 of the said Code, for the words and figures “except as provided in sections 256 and 643” the following shall be substituted, namely :—

Amendment of section
642 of the Code.

“except as provided in section 337A, sub-section (5), and sections 256 and 643.”

Addition of new section
after section 652 of the
Code.

8. After section 652 of the said Code, the following shall be added, namely :—

“653. (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

Release on ground of ill-
ness of judgment-debtor.

“(2) When a judgment-debtor has been arrested under this Code, the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

“(3) When a judgment-debtor has been committed to jail, he may be released therefrom—

“(a) by the Local Government on the ground of his suffering from any infectious or contagious disease, or

“(b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

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“(4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be.”

9. [*Repeal of part of s. 8 of the Married Woman's Property Act, 1874, and s. 31 of the Ajmere Courts Regulation, 1871.**] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

10. (1) For the first fifty-five words of section 48 of the Act of the Governor of Fort St. George in Council, No. VIII of 1865,† the following shall be substituted, namely :—
 Amendment of parts of Madras Act VIII of 1865 and India Act XII of 1881.

“No person shall be imprisoned as a defaulter for a longer period than six months whatever the amount of the arrears may be, nor for a longer period than six weeks if the arrears do not exceed fifty rupees.”

(2) For the proviso to section 163 of the North-Western Provinces Rent Act, 1881,‡ the following shall be substituted, namely :—

“Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed six weeks when the amount decreed (exclusive of costs) does not exceed fifty rupees, or six months in any other case.”

* Printed, Ajmere Code, Ed. 1893, p. 147.

† Printed, Madras Code, Ed. 1888, p. 230.

‡ For Act XII of 1881, *see* the revised edition, as modified up to 1st July 1897, published by the Legislative Department.

ACT VII OF 1888.*

RECEIVED THE G.-G.'S ASSENT ON THE 23RD MARCH 1888.

An Act to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act,

WHEREAS it is expedient to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877; It is hereby enacted as follows :—

* For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 865; for the Report of the Select Committee, see *ibid*, 1888, Part V, p. 27; and for Debates in Council, see *Gazette of India*, 1886, Supplement, pp. 1194 and 1279, and *ibid*, 1888, Part VI, pp. 57 and 77.

This Act (except so much thereof as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877, which is already in force) has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the following Scheduled Districts:—The Districts of Darjeeling and Jalpaiguri, and the Mahal of Angul, see *Calcutta Gazette*, 1888, Part I, p. 959, and *Gazette of India*, Part I, p. 524; the Districts of Hazaribagh, Lohardaga (including the District of Palamau, then a part of Lohardaga) and Manbhum, and the Pargana of Dhalbhum, see *Calcutta Gazette*, 1888, Part I, p. 959, and *Gazette of India*, Part I, p. 524; the Pargana Jaunsar Bawar in the Dehra Dun District and the scheduled portion of the Mirzapur District, see *North-Western Provinces Gazette*, 1888, Part I, p. 517, and *Gazette of India*, 1888, Part I, p. 495; the Scheduled Districts of the Central Provinces, see *Central Provinces Gazette*, 1888, Part II, p. 193, and *Gazette of India*, 1888, Part I, p. 408; the District of Coorg, see *Coorg Gazette*, 1888, Part I, p. 94, and *Gazette of India*, 1888, Part I, p. 409; the Andaman and Nicobar Islands, see *Andaman and Nicobar Islands Gazette*, 3rd November 1888, and *Gazette of India*, 1888, Part II, p. 517; the Province of Sind, see *Bombay Government Gazette*, 1888, Part I, p. 830, and *Gazette of India*, 1888, Part I, p. 478; the Districts of Kamrup, Nowgong (excluding the Mikir Hills tract), Darrang, Sibsagar, Lakhimpur (excluding the Dibrugarh Frontier Tract), Goalpara (excluding the Eastern Dvars), Sylhet and Cachar (excluding the North Cachar Hills) (*except also s. 63*), see *Assam Gazette*, 1888, Part II, p. 405, and *Gazette of India*, 1888, Part I, p. 478.

The whole Act (except ss. 65 and 66) has been extended, under the same section, to the Scheduled Districts of the Punjab, see *Gazette of India*, 1889, Part I, p. 299, and to Ajmere-Merwara (ss. 65 and 66 being already in force), see *Gazette of India*, 1889, Part II, p. 220. It is in force in the Kumaon Division corresponding to the Scheduled Districts of Kumaon and Garhwal and the Tarai Parganas, so far as it amends the Code of Civil Procedure (Act XIV of 1882) as being part of that Code, which was extended thereto under the same section by Notification No. 641—VII-281, dated the 27th June 1894, see *Gazette of India*, 1894, Part I, p. 573.

So much of the Act as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877, has, under s. 3 (a) of the Scheduled Districts Act, 1874, been declared in force in the Districts of Hazaribagh, Lohardaga (including the Palamau District then a part of the Lohardaga District) and Manbhum, and in the Pargana of Dhalbhum and the Kolhan in Singhbhum, see *Calcutta Gazette*, 1888, Part I, p. 959, and *Gazette of India*, 1888, Part I, p. 524.

This portion of the Act has also been declared, under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886) to be in force in the Santhal Parganas, see *Calcutta Gazette*, 1895, Part I, p. 310.

So much of the Act as amends the Code of Civil Procedure (Act XIV of 1882) and the Indian Limitation Act, 1877 (XV of 1877) is in force in Upper Burma (except the Shan States) as being part of those two Acts declared in force there by the Burma Laws Act, 1898 (XIII of 1898).

The Act had to the same extent been previously extended to the Town of Mandalay only, in Upper Burma, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1888, Part I, p. 478.

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1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1888; and

(2) It shall come into force on the first day of July, 1888.

2. (1) In this Act, unless there is something repugnant in the subject or context, "section" means a section, "schedule" a schedule, and "Chapter" a chapter of the Code of Civil Procedure.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to any Act amended by this Act shall, so far as may be, be read as if made to that Act as so amended.

Addition of new section after section 4. ' "

3. The following shall be inserted after section 4, namely:—

"4A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

"(2) 'Revenue Court' in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a civil nature of which its cognizance is not barred by any enactment for the time being in force."

4. [*Repeal of part of section 8.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Addition to section 14.

5. To section 14 the following shall be added, namely:—

"Where a suit is instituted in British India on the judgment of any foreign Court in Asia or Africa except a Court of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Consular Court established by an Order of Her Majesty in Council, the Court in which the suit is instituted shall not be precluded from inquiry into the merits of the case in which the judgment was passed."

Addition of new section after section 16.

6. The following shall be inserted after section 16, namely:—

"16A. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immovable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit

relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction :

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“ Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction

“ (2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto.”

Addition to section 17.

7. In section 17, after Explanation II, the following shall be inserted, namely :—

“ EXPLANATION III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely :—

“ (i) the place where the contract was made ;

“ (ii) the place where the contract was to be performed or performance thereof completed ;

“ (iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable.”

8. In section 27 there shall be inserted after the words “ the Court may ” the words “ at any stage of the suit,” and after the words “ any other person or persons ” the words “ with his or their consent ”.

Substitution of new section for section 53.

9. For sections 53 the following shall be substituted, namely :—

When plaint may be rejected, returned for amendment or amended.

“ 53. The plaint may, at the discretion of the Court,—

“ (a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action ;

“ (b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—

“ (i) is not signed and verified as hereinbefore required,

“ (ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,

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“(iii) is wrongly framed by reason of non-joinder or mis-joinder of parties, or joins causes of action which ought not to be joined in the same suit, or

“(iv) is not framed in accordance with the provisions of section 42 ;

“(c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit :

“ Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

“ When a plaint is amended under this section the amendment shall be attested by the signature of the Judge.”

Substitution of new section for section 72.

10. For section 72 the following shall be substituted, namely :—

“ 72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

“ (2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct.”

Amendment of section 82.

11. In section 82, for the first twenty words the following shall be substituted, namely :—

“ When a summons is returned under section 80, the Court shall, if the return under that section has not been verified by the affidavit of the serving-officer, and may, if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings.”

Substitution of new section for section 90.

12. For section 90 the following shall be substituted, namely :—

“ 90. If there is a British Resident or Agent, or a Superintendent appointed by the British Government, or a Court established or continued by the authority of the Governor-General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court, by post or otherwise, for the purpose of being served upon the defendant ; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service.”

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Substitution of new sections for sections 141 and 142.

13. For sections 141 and 142 the following shall be substituted, namely :—

“ 141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely :—

- “ (a) the number and title of the suit,
- “ (b) the name of the person producing the document,
- “ (c) the date on which it was produced, and
- “ (d) a statement of its having been so admitted,

and the endorsement shall be signed by the Judge. .

“ (2) If a document so admitted is an entry in a book, account or record, and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed by the Judge.

“ 141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

“ (2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished :—

- (i) where the record, book or account is produced on behalf of a party, then by that party, or
- (ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

“ (3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

“ 142. When a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of section 141, sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.

“ 142A. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.

Endorsements on documents rejected as inadmissible in evidence.

Recording of admitted and return of rejected documents.

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“(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them.”

14. In section 143, for the words and figures “sections 62, 141 and Amendment of section 142 ” there shall be substituted the following, 143. namely :—

“section 62, section 141A, sub-section (3), or section 142A, sub-section (2).”

15. In section 159 the words “or sent” shall be inserted after the word “delivered.” Amendment of section 159.

16. In section 168, for the words “shall examine the serving-officer on oath” the following shall be substituted, Amendment of section 168. namely :—“shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court.”

17. The following shall be inserted after section 185, namely :— Addition of new section after section 185.

“185A. (1) The Local Government may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, or following under a description set forth therein, that evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language. Powers for Local Government to require evidence to be recorded in English.

“(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

“(3) Evidence taken down under sub-section (1) or sub-section (2) shall be taken in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected as if it were evidence taken down under that section.

“(4) The Local Government may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1).”

18. For section 191 the following shall be substituted, namely :— Addition to section 191.

“191. (1) Where the Judge taking down any evidence, or causing any memorandum to be made, under this Chapter, is prevented by death, transfer or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it. Power to deal with evidence taken down by another Judge.

“(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25 :

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“ Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh.”

19. To section 193 the following shall be added, namely :—

“ A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173.”

20. (1) In section 209, for the first thirteen words the words “ When a decree is for the payment of money ” shall be substituted.

(2) To the same section the following shall be added, namely :—

“ Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.”

21. (1) In section 216, for the first twenty-four words the following shall be substituted, namely :—

“ If the defendant has been allowed a set-off against the claim of the plaintiff.”

(2) To the same section the following shall be added, namely :—

“ The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise.”

22. In section 223, for the words “ in a case cognizable by a Court of Small Causes ” the following shall be substituted, namely :—

“ in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes.

23. In section 229, after the word “ established ” the words “ or continued ” shall be inserted.

24. After section 229 the following shall be inserted, namely :—

“ 229A. So much of the foregoing sections of this Chapter as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor-General in Council in the territories of any Foreign

Amendment of section 209.

Amendment of section 216.

Amendment of section 223.

Amendment of section 229.

Addition of new section after section 229.

Sending of decrees of British Indian Courts to British Courts in Native States.

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of
1891.**

Prince or State to which the Governor-General in Council has, by notification in the Gazette of India, declared this section to apply."

25. [*Repeal of part of section 230.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Amendment of section
244.

26. (1) In section 244, for clause (c) the following shall be substituted, namely :—

"(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree or to the stay of execution thereof."

(2) To the same section the following shall be added, namely :—

"If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section."

Amendment of section
258.

27. For the last paragraph of section 258 the following shall be substituted, namely :—

"Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree."

Amendment of section
266.

28. (1) In the first proviso to section 266, clause (a), the words "and bedding" shall be inserted after the word "apparel."

(2) In the same proviso, clause (b), after the word "cattle" the words "and seed-grain" shall be inserted.

(3) In the same proviso, for clause (h) the following shall be substituted, namely :—

"(h) the salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

"(i) the whole of the salary where the salary does not exceed twenty rupees monthly ;

"(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly ; and

"(iii) one moiety of the salary in any other case."

(4) To the same proviso, after clause (l), the following shall be added, namely :—

"(m) any allowance declared by any law passed under the Indian Councils Act, 1861,* by a Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree ;

* Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.

(n) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which under any law applicable to him is exempt from sale for the recovery of an arrear of such revenue."

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of
1892.

(5) In the explanation to the same proviso, for the word and letter "and (j)" the letters and word "(j) and (m)" shall be substituted.

29. [*Amendment of section 289.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Addition to section 320.

30. To section 320 the following shall be added, namely :—

" Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the Court under sections 294 and 312, and may provide for orders passed by the Collector or any gazetted subordinate of the Collector, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue-authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

" A power conferred by the rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exerciseable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

" In executing a decree transferred to the Collector under this section, the Collector and his subordinates shall be deemed to be acting judicially within the meaning of Act No. XVIII of 1850 (*an Act for the protection of Judicial Officers*)."

31. (1) In section 349, for the words "is under arrest" the words "is in custody under the foregoing provisions of this Code" shall be substituted.

(2) In section 354, between the word "and" and the words "shall operate" the words "every order under that section appointing a Receiver" shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely :—

" A Court so invested may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made in execution of a decree for money passed by that Court."

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(4) At the end of Chapter XX the following shall be inserted, namely :—

Inapplicability of this Chapter to Presidency-towns.

“ 368A. Nothing in this Chapter shall apply to any Court having jurisdiction within the limits of the town of Calcutta, Madras or Bombay.”

Amendment of Chapter XXI.

32. (1) For sections 363 and 364 the following shall be substituted, namely :—

“ 363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving

right to sue does not survive to surviving plaintiffs alone.

them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit.”

(2) For section 365 the following shall be substituted, namely :—

“ 365. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit.”

Procedure in case of death of sole or sole surviving plaintiff.

(3) To section 368 the following shall be added, namely :—

“ The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon.”

(4) After section 372 the following shall be added, namely :—

Power for Court to extend period of limitation prescribed for certain applications.

“ 372A. The provisions of section 5 of the Limitation Act, 1877, applicable to appeals shall apply to applications under sections 365, 366, 368 and 371.”

Addition to section 381.

33. To section 381 the following shall be added, namely :—

“ or show good cause why such time should be extended, in which case the Court may extend it.

“ Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and, if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

“ The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application.

“ The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively.”

34. In section 386, for the words “ or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint ” the following shall be substituted, namely :—

“ or to any pleader or other person whom the Court issuing the commission may, subject to any rules of the High Court in this behalf, think fit to appoint.”

35. In section 419, after the words “ Government Pleader in any Court ” the words “ or such other person as the Local Government may for any Court appoint in this behalf ” shall be inserted.

36. In section 424, after the words “ intending plaintiff ” the words “ and the relief which he claims ” shall be inserted.

37. (1) In section 432, after the words “ British India ” the following shall be inserted, namely :—

“ or at the request of any person competent in the opinion of the Government to act on behalf of such Prince or Chief.”

(2) To the same section the following shall be added, namely :—

“ An appointment under this section may be made for the purposes of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

“ A person appointed under this section may authorize or appoint persons to make and do appearances, applications and acts in any such suit or suits as if he were himself a party to the suit or suits.”

38. For section 433 the following shall be substituted, namely :—

433. (1) Any such Prince or Chief, and any ambassador or envoy of a Foreign State, may, with the consent of the Governor-General in Council, certified by the signature of one of the Secretaries to the Government of India (but not without such consent), be sued in any competent Court.

Suit against Princes,
Chiefs, ambassadors and
envoys.

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“(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued ; but it shall not be given unless the Prince, Chief, ambassador or envoy—

(a) has instituted a suit in the Court against the person desiring to sue him, or

(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such possession or for money charged on that property.

“(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor-General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

“(4) The Governor-General in Council may, by notification in the Gazette of India, authorize a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing subsections to the Governor-General in Council and a Secretary to the Government of India, respectively.

“(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property.”

39. (1) Section 434 shall become section 229B, and any reference made before the commencement of this Act in any notification or other document to section 434 shall be read as a reference to section 229B.

Transposition and amendment of section 434.

“(2) In section 229B, the words “or continued” shall be inserted after the word “established.”

Insertion of new section 434.

40. After section 433 the following section shall be inserted, namely :—

Style of Princes and Chiefs as parties to suits.

“434. A Sovereign Prince or ruling Chief may sue, and shall be sued, in the name of his State :

“Provided that in giving the consent referred to in the last foregoing section the Governor-General in Council or Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name.”

41. [Addition to section 464. *Princes and Chiefs and Wards of Court.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

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Amendment of section 503. **42.** In section 503, clause (d), the words "as the Court thinks fit" shall be inserted after the words "by way of remuneration".

Amendment of section 504. **43.** In section 504, for the words "the Court may appoint the Collector" the words "the Court may, with the consent of the Collector, appoint him" shall be substituted.

Amendment of section 539. **44.** In section 539, for the words "having a direct interest" the words "having an interest" shall be substituted.

Addition to section 547. **45.** To section 540 the following shall be added, namely :—

"an appeal may lie under this section from an original decree passed *ex parte*."

Addition to section 549. **46.** To section 549 the following shall be added, namely :—

"If such security be furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the Appellate Court in the same manner as if he were the appellant."

Substitution of new section for section 551. **47.** (1) For section 551 the following shall be substituted, namely :—

Power to dismiss appeal without sending notice to Lower Court. "551. (1) The Appellate Court, if it thinks fit, may, after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is made and without serving notice on the respondent or his pleader."

"(2) If on the day fixed under sub-section (1) or any other day to which the hearing may be adjourned the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default."

"(3) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is made."

(2) For the first paragraph of section 552 the following shall be substituted, namely :—

"Unless the Appellate Court dismisses the appeal under the last foregoing section, it shall fix a day for hearing the appeal."

(3) In section 558 the words and figures "section 551, sub-section (2)" shall be inserted before the word and figures "section 556".

Amendment of, and addition to, section 561. **48.** (1) For the proviso to the first paragraph of section 561 the following shall be substituted, namely :—

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“ Provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow.”

(2) To the same section the following shall be added, namely :—

“ Unless the respondent files with the objection a written acknowledgment from the appellant or his pleader of having received a copy thereof, the Appellate Court shall cause such a copy to be served, as soon as may be after the filing of the objection, on the appellant or his pleader, at the expense of the respondent.

“ The provisions of Chapter XLIV shall, so far as they can be made applicable, apply to an objection under this section.”

49. [*Repeal of certain words in section 562.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) In *[section 562], for the word “ investigate ” the word “ determine ” shall be substituted.

50. [*Repeal of section 563.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Amendment of section 565.

51. In section 565, for the word “ shall ” the word “ may ” shall be substituted.

52. [*Repeal of certain words in section 566.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) In †[section 566], between the words “ the Appellate Court may ” and the words “ frame issues ” the words “ if necessary ” shall be inserted.

53. (1) In section 582, for the words “ the words ‘ plaintiff, ’ ‘ defendant ’ and ‘ suit ’ shall be held to include an appellant, a respondent and an appeal, respectively,” the following shall be substituted, namely :—

Amendment of section 582.

“ the word ‘ plaintiff ’ shall be held to include a plaintiff-appellant or defendant-appellant, the word ‘ defendant ’ a plaintiff-respondent or defendant-respondent, and the word ‘ suit ’ an appeal.”

(2) In the same section, the words and figures “ including those of section 372A,” shall be inserted after the words “ The provisions hereinbefore contained.”

Addition to section 584.

54. To section 584 the following shall be added, namely :—

“ An appeal may lie under this section from an appellate decree passed *ex parte*.”

* The word and figures “ section 562 ” were substituted for the words “ the same section ” by the Repealing and Amending Act, 1891 (XII of 1891), second schedule.

† The word and figures “ section 566 ” were substituted for the words “ the same section ” by the Repealing and Amending Act, 1891 (XII of 1891).

Amendment of section
588.

55. (1) In section 588, clause (9), for the word "or" the word "for" shall be substituted.

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(2) In the same section, clause (16), for the words "the first paragraph of," the words "and orders under" shall be substituted.

56. [*Repeal of part of section 589.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

57. [*Repeal of section 599 and part of section 601.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Addition to section 610. **58.** After the second paragraph of section 610 the following shall be inserted, namely :—

"In so far as the order awards costs to the respondent, it may be executed against a surety therefor, to the extent to which he has rendered himself liable, in the same manner as it may be executed against the appellant :

"Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety."

Addition to section 626. **59.** To section 626 the following proviso shall be added, namely :—

"and

(c) an application made under section 624 to the Judge who delivered the judgment may, if that Judge has ordered notice to issue under proviso (a) to this section, be disposed of by his successor."

Addition of new sections
after section 646. **60.** After section 646 the following shall be inserted, namely :—

"646A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit.

(2) On receiving the record and statement, the High Court may order the Court either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

"646B. (1) If it appears to a District Court that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall submit the record to the High Court with

Power to District Court to submit for revision proceedings had under mistake as to jurisdiction in small causes.

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a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

“(2) On receiving the record and statement, the High Court may pass such order in the case as it thinks fit.

“(3) With respect to any proceeding subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.

“(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section.”

Amendment of, and addition to, section 648.

61. (1) For the third paragraph of section 648 the following shall be substituted:—

“and the Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.”

To section 648 the following shall be added, namely:—

“Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or Bombay, or of the Court of the Recorder of Rangoon, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court.”

Amendment of section 650A.

62. In section 650A, the words “or continued” shall be inserted after the word “established.”

Addition to section 652.

63. To section 652 the following shall be added, namely:—

“A High Court not established under the Statute 24 & 25 Victoria, Chapter 104 * (*an Act for establishing High Courts of Judicature in India*), may, from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might under section 15 of that Statute make with respect to any such matter for any part of the territories under its jurisdiction

* The Indian High Courts Act, 1861, printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 713.

which is not included within the limits of a presidency-town. Rules so made shall be published in the same manner, and shall thereupon have the same force, as rules made and published under this section for the regulation of matters connected with procedure."

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64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person."

Amendment of form No. 137, Schedule IV.

65. (1) After clause (n) of section 17 of the Indian Registration Act, 1877, as amended by the Indian Registration Act, 1886, the following clause shall be added, namely :—

Amendment of the Indian Registration Act, 1877.

"(a) a certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer."

(2) In the second paragraph of section 50 of the same Act, for the word and letter "and (n)" the letters and word "(n) and (o)" shall be substituted.

(3) The Indian Registration Act, 1877, shall be construed as if the amendments made in it by this section had been made therein by Act XII of 1879 (*an Act to amend * the Registration Act, 1877, and the Limitation Act, 1877*).

Provided that nothing in this sub-section shall be deemed to affect a decree or order made by any Court before the commencement of this Act.

66. (1) No. 161 of the second schedule to the Indian Limitation Act, 1877, shall be transposed and become No. 173A, and the entry against it in the second column of that schedule shall be "Ditto", signifying ninety days.

Amendment of the Indian Limitation Act, 1877.

(2) [*Repeal of Nos. 171, 171A and 171B, Schedule II, Act XV of 1877.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(3) For No. 171C of the same schedule the following shall be substituted, namely :—

Description of Application.	Period of Limitation.	Time from which Period begins to run.
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"171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal.	Sixty days	The date of the order for abatement or dismissal."
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* The words "the Code of Civil Procedure" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), First Schedule.

Act VII
of
1888.

(4) After No. 175 of the same schedule the following shall be inserted, namely :—

Description of Application.	Period of Limitation.	Time from which Period begins to run.
" 175A. Under section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant.	Six months	.. The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant.
" 175B. Under section 366 of the Code of Civil Procedure by a defendant, or under that section and section 582 of the same Code by a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant.
175C. Under section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.	Ditto ..	.. The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent."

ACT VIII OF 1888.

Act VIII
of
1888.

RECEIVED THE G.-G.'S ASSENT ON THE 5TH SEPTEMBER 1888.

An Act to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor-General in Council, No. VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV of 1864 (*an Act to amend Act VIII of 1851*): It is hereby enacted as follows :—

1. Acts VIII of 1851 and XV of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and from the twenty-first day of August, 1857, and the twenty-fourth day of March, 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council, and the Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which Acts VIII of 1851 and XV of 1864 may be or have been extended, or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851.

(2) "Presidency," where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

3. All tolls levied, or purporting to have been levied, under Acts VIII of 1851 and XV of 1864, or either of those Acts, before the passing of this Act shall be deemed to have been lawfully levied.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of

* Short title, "The Indian Tolls Act, 1888," see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 43; and for Proceedings in Council, see *ibid.*, Part VI, pp. 82 and 93.

This Act has been declared in force in Upper Burma (except the Burma Laws Act, 1898 (XIII of 1898)).

It had been previously declared in force there under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Burma Gazette*, 1888, Part I, p. 497, and *Gazette of India*, 1888, Part I, p. 478.

**Act X
of
1888.**

5. In section 2 of Act VIII of 1851 * the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council."

Amendment of section 2,
Act VIII, 1851.

ACT X OF 1888.†

RECEIVED THE G.-G.'S ASSENT ON THE 20TH SEPTEMBER 1888.

An Act to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:—

Revision of the second
schedule to Act XIV of
1882.

1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

* The words "the words 'and the Governor of the Presidency of Bombay in Council' are hereby repealed and" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

† Short title, "The Presidency Small Cause Courts Law Amendment Act, 1888," see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 66; and for Proceedings in Council, see *ibid.*, Part VI, pp. 93 and 100.

So far as this Act amends the Code of Civil Procedure, it is in force in Upper Burma (except the Shan States) as being part of the Code, declared in force there by the Burma Laws Act, 1898 (XIII of 1898). Ss. 1 and 3 of Act X of 1888 had been previously extended under Act XIV of 1874 to the Town of Mandalay in Upper Burma, see *Gazette of India*, 1889, Part I, p. 292.

I.—Ss. 1 and 3 of this Act have been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the (1) Province of Sindh, see Bombay Code, Vol. I, Ed. 1894, Appendix, p. xxxii; (2) the Districts of Kamrup and Nowgong (excluding the Mikir Hill Tracts), Darrang, Sibsagar, Lakhimpur (excluding the Dibrugarh Frontier Tract), Goalpara (excluding the Eastern D'v'ars), Sylhet and Cachar (excluding the North Cachar Hills), see Assam Code, Ed. 1897, Appendix, p. 752; (3) Ajmere-Merwara, see Ajmere Code, Ed. 1893, Appendix, p. vi; (4) the Districts of Darjiling and Jalpaiguri and the Mahal of Angul, see *Gazette of India*, 1889, Part I, p. 538, and *Calcutta Gazette*, 1889, Part I, p. 831 [*The amendments made by ss. 1 and 3 of this Act are also in force in the District of Angul as being part of Act XIV of 1882, declared in force therein by the Angul District Regulation, 1894 (I of 1894)*]; (5) the Districts of Hazaribagh, Lohardaga (which included at this time the present District of Palamau) and Manbhum, and Pargana Dhalbhum in the District of Singbhum, see *Gazette of India*, 1889, Part I, p. 538, and *Calcutta Gazette*, 1889, Part I, p. 831; (6) the Scheduled Districts of the Central Provinces, see Central Provinces Code, Ed. 1891, Appendix II, p. 392; (7) Coorg District, see Coorg Code, Ed. 1893, Appendix, p. 172; (8) Jaunsar Bawar and the scheduled portion of the Mirzapur District, see North-Western Provinces and Oudh Code, Ed. 1892, Appendix, p. xxxii; (9) the Scheduled Districts of the Punjab, see *Gazette of India*, 1889, Part I, p. 299.

II.—Ss. 1 and 4 of the Act have been extended to the Kholhan, see *Calcutta Gazette*, 1889, Part I, p. 832, and s. 4 to the Districts of Hazaribagh, Lohardaga (which included at this time the present District of Palamau) and Manbhum, and Pargana Dhalbhum in the Singbhum District, see *Gazette of India*, 1889, Part I, p. 538, and *Calcutta Gazette*, 1889, Part I, p. 831.

III.—So much of s. 4 as repeals Act VIII of 1880 has been extended under the same section to Upper Burma, see Burma Code, Ed. 1888, Appendix, p. 494, see also *Gazette of India*, 1889, Part I, p. 292.

2. (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be added, namely :—" Subject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require."

Amendment of Act XV of 1882.

Act X
of
1888.

(2) For the second schedule to the same Act there shall be substituted the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

Addition to section 589, Act XIV of 1882.

3. To section 589 of the Code of Civil Procedure the following shall be added, namely :—

" Provided that an appeal from an order specified in section 588, clause (17), shall lie—

(a) to the District Court where the order was passed by a Court subordinate to that Court, and

(b) to the High Court in any other case."

4. [*Repeal of Act VIII of 1880 and s. 26 of Act IX of 1887.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

THE FIRST SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(See section 5.)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

PRELIMINARY : Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except section 77.

**Act X
of
1888.**

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Of Discovery and the Admission, etc., of Documents.

CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

CHAPTER XVIII.—Of Costs, sections 220, 221 and 222.

CHAPTER XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency jurisdiction.

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVI.—Suits by Paupers.

CHAPTER XXVII.—Suits by and against Government or Government Servants.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.

CHAPTER XXXVI.—Appointment of Receivers,

CHAPTER XXXVII.—Reference to Arbitration.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.

CHAPTER XLVI.—Reference to and Revision by High Court.

CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.

CHAPTER XLIX.—Miscellaneous.

Act 2
of
1882

THE SECOND SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.)

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

PRELIMINARY : Section 2, Interpretation-clause.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.

CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.

CHAPTER III.—Of parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits, except section 53, clause (b), sub-clause (iv), section 55, section 57, clause (b), and sections 58 and 62.

CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65 and 66.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Written Statements and Set-off, except sections 110, 112 and 113.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Sending for Records and Production, etc., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145.

CHAPTER XI.—Settlement of Issues, sections 150 and 151.

CHAPTER XII.—Disposal of the Suit at the First Hearing, except sections 154 and 155.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive), and the second paragraph of section 193.

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).

CHAPTER XVIII.—Of Costs.

**Act X
of
1922.**

CHAPTER XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses) and 337 to 343 (both inclusive).

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVII.—Suits by or against Government or Public Officers.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5).

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of Immoveable Property.

CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.

CHAPTER XXXVI.—Appointment of Receivers, section 503.

CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.

CHAPTER XLVI.—Of Reference to and Revision by High Court.

CHAPTER XLIX.—Miscellaneous.

ACT XI OF 1888.*

Act XI
of
1888.

RECEIVED THE G.-G.'S ASSENT ON THE 5TH OCTOBER 1888.

An Act to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885; It is hereby enacted as follows:—

Addition of section to Act XIII of 1885 1. The following section shall be added to that Act, namely:—

(*Vide supra*, p. 21.)

ACT XVII OF 1888.†

RECEIVED THE G.-G.'S ASSENT ON THE 26TH OCTOBER 1888.

An Act to amend the Indian Marine Act, 1887.

WHEREAS it is expedient to amend the Indian Marine Act, 1887; It is hereby enacted as follows:—

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, the following shall be substituted, namely:—

(*Vide supra*, p. 144.)

ACT I OF 1889.‡

RECEIVED THE G.-G.'S ASSENT ON THE 1ST FEBRUARY 1889.

An Act for the Protection of Coinage and other Purposes.

WHEREAS it is expedient to prohibit the making, or the possession for issue, or the issue, by private persons of pieces of metal for use as money;

And whereas it is also expedient to amend section 28 of the Indian Penal Code;

* Short title, "The Indian Telegraph (Presidency-towns) Act, 1888," see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 45; and for Proceedings in Council, see *ibid.*, Part VI, pp. 83 and 102.

† Short title, "The Indian Marine Act (1887) Amendment Act, 1888," see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 103; and for Proceedings in Council, see *ibid.*, Part VI, pp. 110 and 133.

‡ For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 19; for Report of the Select Committee, see *ibid.*, 1889, Part IV, p. 3; and for Debates in Council, see *ibid.*, 1888, Part VI, pp. 40 and 81, and *ibid.*, 1889, Part VI, pp. 3 and 9.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Burma Gazette*, 1893, Part I, p. 164.

**Act I
of
1889.**

It is hereby enacted as follows:—

Title, extent and com-
mencement,

1. (1) This Act may be called the Metal
Tokens Act, 1889.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. In this Act "issue" means to put a piece of metal into circulation
for the first time for use as money in British
India, such piece having been made in contraven-
tion of this Act or brought into British India by sea or by land in contraven-
tion of any notification for the time being in force under section 19 of the
Sea Customs Act, 1878.

3. No piece of copper or bronze or of any other metal or mixed
metal, which, whether stamped or unstamped, is
intended to be used as money, shall be made
except by the authority of the Governor-General
in Council.

Prohibition of making by
private persons of pieces of
metal to be used as money.

Penalty for unlawful
making, issue or possession
of such pieces.

4. (1) In either of the following cases,
namely:—

(a) if any person makes in contravention of the last foregoing section,
or issues or attempts to issue, any such piece as is mentioned
in that section,

(b) if, after the expiration of three months from the commencement
of this Act, any person has in his possession, custody or
control any such piece as is mentioned in the last foregoing
section, with intent to issue the piece,

the person shall be punished,

(i) if he has not been previously convicted under this section, with
imprisonment which may extend to one year, or with fine, or
with both; or

(ii) if he has been previously convicted under this section, with im-
prisonment which may extend to three years, or with fine, or
with both.

(2) If any person is convicted of an offence under sub-section (1), he
shall, in addition to any other punishment to which he may be sentenced,
forfeit all such pieces as aforesaid, and all instruments and materials for the
making of such pieces, which may have been found in his possession, custody
or control.

(3) If in the trial of any such offence the question arises whether any
piece of metal or mixed metal was intended to be used or to be issued for
use as money, the burden of proving that the piece was not intended to be so
used or issued shall lie on the accused person.

Cognizance of offences under the last foregoing section.

5. (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence.

**Act I
of
1889**

(2) Notwithstanding anything in the Code of Criminal Procedure, 1882,* no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of by any Magistrate, except a District Magistrate or Sub-divisional Magistrate, without the previous sanction of the District Magistrate or Sub-divisional Magistrate.

6. If at any time the Governor-General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, † instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub-section (3) of section 4 and sub-section (1) of section 5, or of either sub-section, in relation to the offence of making such pieces shall, notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act.

7. [Addition to section 98, Act X of 1882.] Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).

8. (1) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority.

(2) If any person on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway-administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees.

9. For the *Explanation* to section 28 of the Indian Penal Code the following shall be substituted, namely :—

Amendment of section 28 of the Indian Penal Code.

“ *Explanation I.*— It is not essential to counterfeiting that the imitation should be exact.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

† For notification issued under this power, see *Gazette of India*, 1889, Part I, p. 76.

Act II
of
1889.

“*Explanation 2.*—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.”

ACT II OF 1889.*

RECEIVED THE G.-G.'S ASSENT ON THE 15TH FEBRUARY 1889.

An Act to declare the Imperial Standard Yard for the United Kingdom to be the Legal Standard Measure of Length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Measures of Length Act, 1889.

(2) It extends to the whole of British India; and

(3) It shall come into force on such day as the Governor-General in Council may appoint in this behalf.†

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

3. A copy, approved by the Governor-General in Council, of the imperial standard for determining the length of the
shall be kept in such place within the limits of the Town of Calcutta as the Governor-General in Council may prescribe,‡ and shall be the standard for determining the length of the standard yard.

4. One-third part of the standard yard shall be called a standard foot,
Standard foot and inch. ---- one thirty-sixth part of such a yard shall be called a standard inch.

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 41; for Report of the Select Committee, see *ibid.*, 1889, Part IV, p. 6; and for Proceedings in Council, see *ibid.*, 1888, Part VI, pp. 66 and 82, and *ibid.*, 1889, Part VI, p. 20.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Burma Gazette*, 1893, Part I, p. 154.

† The Act was brought into force on the 15th June 1889, see *Gazette of India*, 1889, Part I, p. 305.

‡ For notification prescribing such a place, see *Gazette of India*, 1889, Part I, p. 505.

Act II.
of
1889.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor-General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor-General in Council or the Local Government,* or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866,† by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1888,‡ by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888,§ and by the District Magistrate under section 20 of Regulation XII of 1827,|| of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

* For officers appointed to have charge of such measures in (1) Assam, Assam Manual of Local Rules and Orders, Ed. 1893, p. 267 ; (2) Bombay, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 495 ; (3) Burma, *see* Burma Rules Manual, Ed. 1897, p. 203 ; (4) Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, p. 250 ; (5) Madras, *see* Madras List of Local Rules and Orders, Vol. I, Ed. 1898, pp. 226 and 227 ; (6) North-Western Provinces and Oudh, *see* the North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 126.

† Printed, Bengal Code, Vol. II, Ed. 1890, p. 61.

‡ Printed, *ibid.*, p. 383.

§ Printed, Bombay Code, Vol. II, Ed. 1896, p. 193.

|| Printed, Bombay Code, Vol. I, Ed. 1894, p. 17.

Act IV
of
1889.

ACT IV OF 1889.*

RECEIVED THE G.-G.'S ASSENT ON THE 1ST MARCH 1889.

An Act to amend the law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise ; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Indian Merchandise Marks Act, 1889.

(2) It extends to the whole of British India ; †

(3) It shall come into force on the first day of April, 1889.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context.—

(1) “trade mark” has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act ;

(2) “trade description” ‡ means any description, statement or other indication, direct or indirect,—

(a) as to the number, quantity, measure, gauge or weight of any goods, or

(b) as to the place or country in which, or the time at which, any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright ;

and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matter shall be deemed to be a trade description within the meaning of this Act :

(3) “false trade description” ‡ means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act :

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 109 ; for Report of the Select Committee, see *ibid.*, 1889, Part V, p. 27 ; and for Proceedings in Council, see *ibid.*, 1888, Part VI, pp. 111 and 136, and *ibid.*, 1889, Part VI, p. 38.

† The words “and subject to the provision of the last section of this Act” were repealed by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of 1891).

‡ (*V.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (1)]).

(4) "goods" means anything which is the subject of trade or manufacture : and

(5) "name" includes any abbreviation of a name.

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Amendment of the Indian Penal Code.

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely :—

"Of Trade, Property and other Marks.

* "478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or Foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

Property mark. "479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Using a false trade mark. "480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

Using a false property mark. "481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked belong to a person to whom they do not belong, is said to use a false property mark.

Punishment for using a false trade mark or property mark. "482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

* Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (1)].

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“ 483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

“ 484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Counterfeiting a mark used by a public servant.

“ 485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Making or possession of any instrument for counterfeiting a trade mark or property mark.

“ 486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

Selling goods marked with a counterfeit trade mark or property mark.

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

“ 487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which

Making a false mark upon any receptacle containing goods.

it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

“488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Punishment for making use of any such false mark.

“489. Whoever removes, destroys, defaces or adds to any property mark intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

Tampering with property mark with intent to cause injury.

Trade Descriptions.

* 4. (1) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

Provisions supplemental to the definition of, false trade description.

† (2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

(a) not being a trade mark, or part of a trade mark, and

(b) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorized the use of such name or initials.

* Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (2)], and Wright thereon, pp. 16 and 38.

† Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (3)].

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(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

Application of trade descriptions.

* 5. (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or
- (c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or
- (d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression “covering” includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression “label” includes any band or ticket.

† 6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

* *cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 5].

† *cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 2 (1)].

(c) that otherwise he had acted innocently,
be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Unintentional Contravention of the Law relating to Marks and Descriptions.

* 8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

- (a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and
- (b) that he took reasonable precautions against committing the offence charged, and
- (c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and
- (d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture of Goods.

† 9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false

* Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 6].

† Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 2 (3) (iii)].

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mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Amendment of the Sea Customs Act,

Amendment of section
18, Act VIII of 1878.

*10. (1) For clause (d) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:—

“(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889:

“(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) † [the country in which that place is situated is] in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and the same language and character as the name or trade mark.”

* Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 16

† The words “the country in which that place is situated is” were substituted for the words “that place and the country in which it is situated are” by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of

(2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (1), the following shall be added, namely:—

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“(f) piece-goods, such as are ordinarily sold by length or by the piece, which—

- (i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and
- (ii) have been manufactured beyond the limits of India, or
- (iii) having been manufactured within those limits have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881.

Addition of a section
after section 19, Act VIII
of 1878.

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely:—

* “ 19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

“ (2) The Governor-General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

“ (3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

“ (4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

* Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 16 (2), (3), (4), (5), and (6)].

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“ (5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

“ (6) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burma Gazettes.”

Stamping of Length of Piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the
Stamping of length of piece, which have been manufactured in premises
piece-goods manufactured which are a factory as defined in the Indian
in British India. Factories Act, 1881, shall not be removed from
those premises without having conspicuously stamped in English numerals
on each piece the length thereof in standard yards, or in standard yards and
a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental Provisions.

* **13.** In the case of goods brought into British India by sea, evidence of
Evidence of origin of goods imported by sea. the port of shipment shall, in a prosecution for an
offence against this Act or section 18 of the Sea
Customs Act, 1878, as amended by this Act, be
prima facie evidence of the place or country in which the goods were made
or produced.

† **14.** (1) On any such prosecution as is mentioned in the last fore-
going section or on any prosecution for an offence
Costs of defence or pro- against any of the sections of the Indian Penal
secution. Code, as amended by this Act, which relate to
trade, property and other marks, the Court may order costs to be paid to
the defendant by the prosecutor or to the prosecutor by the defendant,
having regard to the information given by and the conduct of the defendant
and prosecutor respectively.

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

* Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 10]

† Cf. the Merchandise Marks Act, 1887 (50 & 51 Vict., c. 28, s. 14.)

***15.** No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

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Limitation of prosecution.

16. (1) The Governor-General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions † for observance by Criminal Courts in giving effect to any of the provisions of this Act.

Authority of the Governor-General in Council to issue instructions as to administration of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognized by Criminal Courts as permissible in the case of any goods.

‡ **17.** On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

Implied warranty on sale of marked goods.

§ **18.** (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

Savings.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

* (*Cf.* the Merchandise Marks Act, 1887 (50 & 51 Vict., c. 28, s. 15).

† For notifications containing such instructions, see *Gazette of India*, 1891, Part I, p. 626.

Cf. the Merchandise Marks Act, 1887 (50 & 51 Vict., c. 28, s. 17).

Cf. the Merchandise Marks Act, 1887 (50 & 51 Vict., c. 28, s. 19).

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* 19. [*Date of commencement of this Act as regards unstamped piece-goods.*] *Rep. by Act IX of 1891.*

† 19. For the purposes of section 12 of this Act and clause (f) of section 18 of the Sea Customs Act, 1878, as amended by this Act, the Governor-General in Council may, by notification in the Gazette of India,‡ declare what classes of goods are included in the expression 'piece-goods, such as are ordinarily sold by length or by the piece.'

† 20. (1) The Governor-General in Council may make rules,‡ for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples.

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the Court or officer of Customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2) desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of Customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor-General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of Customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

* The heading to s. 19, namely, "Transitory Provision," was repealed at the same time by the same Act, namely, the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of 1891).

† Ss. 19 to 22 here printed were added by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of 1891), s. 4.

‡ For rules issued under these sections, see *Gazette of India*, 1891, Part I, p. 187.

(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

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(6) Rules under this section shall be made after previous publication.

* 21 An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

* 22. If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India,† would under this Act, or under any section of that part of Chapter XVIII of the Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.

ACT VI OF 1889.

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1889.

An Act to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870. . . . § and to make provision with respect to certain other matters.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, § and to make provision with respect to certain other matters; It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Probate and Administration Act, 1889.

* Ss. 21 and 22 were added by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of 1891).s 4.

† (f. s. 108A of the Indian Penal Code (Act XLV of 1860).

‡ For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V. p. 53; for Report of the Select Committee, see *ibid.*, 1889, Part IV, p. 39; and for Proceedings in Council, see *ibid.*, 1888, Part VI, pp. 90 and 136, and *ibid.*, 1889, pp. 20 and 45.

The whole Act, with the exception of s. 21, has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

The Act has also been declared to be in force in the Santhal Parganas under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1889, Vol. I, p. 598.

As being part of the Acts amended by it, the Act is in force in British Baluchistan, see British Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Code, Ed. 1890, p. 69.

§ The words "and the Stamp Act, 1879," were repealed by the Indian Stamp Act,

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- (2) It applies to the whole of British India * . . . ; and
(3) It shall come into force at once.

Indian Succession Act, 1865.

Amendment of section 234, Act X, 1865. **2.** After the 4th clause of the *explanation* to section 234 of the Indian Succession Act, 1865, the following shall be added, namely :—

“ 5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect.”

Amendment of section 244, Act X, 1865. **3.** In section 244 of the same Act, for the words “and that the petitioner is the executor therein named” the following shall be substituted, namely :—

“the amount of assets which are likely to come to the petitioner’s hand and

“that the petitioner is the executor named in the will;”

Amendment of section 254, Act X, 1865. **4.** For the last forty-two words of section 254 of the same Act the following shall be substituted, namely :—

“he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.”

Amendment of section 255, Act X, 1865. **5.** For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :—

“he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.”

Amendment of section 256, Act X, 1865. **6.** In section 256 of the same Act, for the words “Every person to whom any grant of administration shall be committed” the words “Every person to whom any grant of letters of administration is committed” shall be substituted.

* The words “inclusive of Upper Burma, except the Shan States,” were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (XIII of 1898).

Substitution of new section for section 277, Act X, 1865.

7. For section 277 of the same Act the following shall be substituted, namely :—

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“ 277. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

“ (2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

“ (3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

“ (4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code.”

8. In section 277A of the same Act, for the words “ it is sought to obtain a grant ” the words “ a grant has been made,” and for the words and figures “ the person applying for administration after the first day of April, 1875,” the word “ administrator,” shall be substituted.

Amendment of section 277A, Act X, 1865.

9. (1) In section 283 of the same Act, for the words “ the country in which he was domiciled ” the words “ British India ” shall be substituted.

Amendment of section 283, Act X, 1865.

(2) [*Repeal of illustration to section 283.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Addition to Act X, 1865.

10. To the same Act the following shall be added, namely :—

“ 333. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

Surrender of revoked probate or letters of administration.

“ (2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both.”

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Probate and Administration Act, 1881.

11. After the 4th clause of the *explanation* to section 50 of the Probate and Administration Act, 1881, the following shall be added, namely :—

Amendment of section 50, Act V, 1881.

“5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect.”

12. For the portion of section 76 of the same Act beginning with the words “he having undertaken to administer the same” and ending with the words “within one year from the same date” the following shall be substituted, namely :—

Amendment of section 76, Act V, 1881.

“he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.”

13. For the portion of section 77 of the same Act beginning with the words “he having undertaken to administer the same” and ending with the words “within one year from the same date” the following shall be substituted, namely :—

Amendment of section 77, Act V, 1881.

“he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.”

Substitution of new section for section 90, Act V, 1881.

14. For section 90 of the same Act the following shall be substituted, namely :—

“90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

Power of executor or administrator to dispose of property.

The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing

notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

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“(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

“(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.”

“(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon or annexed thereto a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

“(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorize an executor or administrator to act otherwise than in accordance with the provisions of this section.”

Substitution of new section for section 98, Act V, 1881.

15. For section 98 of the same Act the following shall be substituted, namely:—

“98. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

“(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

“(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

“(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code.”

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16. In section 99 of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made," and for the words "the person applying for administration" the word "administrator" shall be substituted.

Addition to Act V, 1881.

17. To the same Act the following shall be added, namely :—

" 157. (1) When a grant or probate of letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

" (2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both."

*Court-fees Act, 1870, . . . **

18. (1) [*Repeal of article 16 (Sch. II), Act VII of 1870.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) In article 6 of the second schedule to the Court-fees Act, 1870, for the words "Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority," the following words shall be substituted, namely :—

"Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882,† or the Code of Civil Procedure."

(4) [*Amending the Indian Stamp Act, 1879.*] *Rep. by the Indian Stamp Act,*

Miscellaneous.

19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained.

* The words "and Indian Stamp Act, 1879," in the heading were repealed by the Indian Stamp Act, 1899.

† See now the Code of Criminal Procedure, 1898 (Act V of 1898).

20. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as it were an arrear of land-revenue by any Collector in any part of British India.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture, or any part of any further penalty payable under section 19E of the said Act.

21. [*Repeal of part of section 7 (3), Bengal Act VII of 1880.*] *Rep. by the Repealing and Amending Act, 1891 (XII of*

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ACT VII OF 1889

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1889.

An Act to facilitate the Collection of Debts on Successions and afford protection to Parties paying Debts to the Representatives of Deceased Persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons ; It is hereby enacted as follows :—

Title, commencement,
extent and application.

1. (1) This Act may be called the Succession Certificate Act, 1889.

(2) It shall come into force on the first day of May, 1889 ; and

(3) It extends to the whole of British India †

(4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed.

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V, p. 60 ; for Report of the Select Committee, see *ibid.*, 1889, Part V, p. 45 ; and for Proceedings in Council, see *ibid.*, 1888, Part VI, pp. 92 and 136, and *ibid.*, 1889, Part VI, p. 48.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

The Act has also been declared to be in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (I of 1890), s. 3, printed, Baluchistan Code, Ed. 1890, p. 69 ; and in the Angul District by the Angul District Regulation, 1894 (I of 1894), s. 3.

It has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1889, p. 597.

† The words "inclusive of Upper Burma, except the Shan States," were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (XIII of 1898).

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2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

Repeal

(2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860* or any enactment repealed by that Act.

(3) Any enactment except this Act and section 152 of the Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “District Court,” subject to the other provisions of this Act and to the provisions of proviso (b) to section 23 of the Punjab Courts Act, 1884,† and of any other like enactment for the time being in force, means a Court presided over by a District Judge: and

(2) “Security” means—

(a) any promissory note, debenture, stock or other security of the Government of India;

(b) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;

(c) any stock or debenture of, or share in, a company or other incorporated institution;

(d) any debenture or other security for money issued by, or on behalf of, a local authority;

(e) any other security which the Governor-General in Council may, by notification in the *Gazette of India*, declare to be a security for purposes of this Act.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (1) No Court shall—

(a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or

(b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

* Repealed by this Act.

† See the revised edition, as modified up to the 1st April 1891, published by the Legislative Department.

except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 36 or section 37 of the Administrator-General's Act, 1874, and having the debt mentioned therein, or
- (iii) a certificate granted under this Act and having the debt specified therein, or
- (iv) a certificate granted under Act XXVII of 1860* or an enactment repealed by that Act, or
- (v) a certificate granted under the Regulation of the Bombay Code No. VIII of 1827† and, if granted after the commencement of this Act, having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff and setting forth the following particulars, namely :—

- (a) the time of the death of the deceased ;
 - (b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits ;
 - (c) the family or other near relatives of the deceased and their respective residences ;
 - (d) the right in which the petitioner claims ;
- the absence of any impediment under section 1, sub-section (4) or under any other provision of this Act or any other enact-

* Repealed by this Act.

† Printed, B ombay Code, Vol. I, Ed . 1894, p. 11.

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ment, to the grant of the certificate or to the validity thereof if it were granted ; and

(f) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

(a) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and

(b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court, in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto. "

(4) When there are more applicants than one for a certificate, and it appears to the Court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

(a) to receive interest or dividends on, or

(b) to negotiate or transfer, or

(c) both to receive interest or dividends on, and to negotiate or transfer, the securities or any of them.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (3) or sub-section (4), and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to ensure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

10. (1) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

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of
1889.**Amendment of Act VII,
1870.**13.** (1) For articles 11 and 12 of the first schedule to the Court-fees Act, 1870, the following shall be substituted, namely :—

Number.	Proper fee.
"11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees. Two per centum on such amount or value : provided that when after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
12. Certificate under the Succession Certificate Act, 1889.	In any case Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
"12A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.*	
<p>NOTE.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.</p> <p>(2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.</p> <p>(1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and</p> <p>(2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."</p>	

(2) In the Court-fees Act, 1870, section 19, clause (viii), for the words "and figures "and certificate mentioned in the first schedule to this Act annexed, No. 12," the words and figures "and, save as regards debts and securities, a certificate under * Bombay Regulation VIII of 1827 " shall be substituted.

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14. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

Mode of collecting Court-fees on certificates.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

Local extent of certificate.

15. A certificate under this Act shall have effect throughout the whole of British India.

16. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate.

17. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

Effect of certificate granted or extended by British representative in Foreign State.

Revocation of certificate.

18. A certificate granted under this Act may be revoked for any of the following causes, namely :—

(a) that the proceedings to obtain the certificate were defective in substance ;

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(b) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of some thing material to the case ;

(c) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently ;

(d) that the certificate has become useless and inoperative through circumstances ;

(e) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

19. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

(3) Subject to the provisions of sub-section (1) and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

20. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

21. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

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22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate or under the probate or letters of administration.

23. (1) Where a certificate has been granted under this Act or Act XXVII of 1860,* or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 † shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator.

(2) But persons who have paid debts or rents to a curator authorized by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

24. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865 :

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

* Repealed by this Act.

† The Succession (Property Protection) Act, 1841

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1899.**

25. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

26. (1) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification. *

Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court :

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 19 shall lie to the District Court, and not to the High Court, and that the District Court may, if it thinks fit, by its order on the appeal, make any such declaration and direction as that sub-section authorizes the High Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

* For notifications issued under this sub-section for (1) Assam, *see* Assam Manual of Local Rules and Orders, Ed. 1893, p. 268 ; (2) Bombay, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. 495—497 ; (3) Madras, *see* Madras List of Local Rules and Orders, Vol. I, Ed. 1898, pp. 227 and 228 ; (4) North-Western Provinces and Oudh, *see* North-Western Provinces and Oudh List of Local Rules Orders, Ed. 1894, p. 126,

27. (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

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(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII of 1827,* the provisions of section 3, section 6, sub-section (1), clause (f), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act and applications therefor, and of section 98 of the Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

Provisions with respect to certificates under Bombay Regulation VIII of 1827.

* Printed, Bombay Code, Vol. I, Ed. 1894, p. 11.

**Act VII
of**

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and Year.	Subject or Title.	Extent of Repeal.
<i>Acts of the Governor-General in Council.</i>		
XXVII of 1860	Collection of debts on suc- cessions.	So much as has not been re- pealed.
*XIV of	Bombay Civil Courts Act, 1869.	In section 16, from and inclu- sive of the words and figures "Bombay Regulation VIII of 1827" down to and inclu- sive of the words "repre- sentatives of deceased per- sons and"
XV of 1874 ..	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
†XIII of 1879 ..	Oudh Civil Courts Act, 1879.	Section 25, clause (3), relating to applications for certifi- cates under Act XXVII of 1860.
V of 1881	Probate and Administra- tion Act, 1881.	Sections 151 and 153.
‡XVIII of 1884	Punjab Courts Act, 1884 ..	Section 29, sub-section (1), clause (a).
XII of 1887	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 23, sub-section (2), clause (c).

Act of the Lieutenant-Governor of Bengal in Council.

VII of 1880	Public Demands Recovery Act, 1880.	In section 7, clause (3), the words "and the note to para- graph 12 of Schedule I".
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* Printed, Bombay Code, Vol. I, Ed. 1894, p. 127.

† Printed, North-Western Provinces and Oudh Code, Ed. 1892, p. 355.

‡ See the revised edition as modified up to the 1st April 1891, published by the Legisla-
tive Department.

§ Printed, Assam Code, Ed. 1897, p. 191.

|| Since entirely repealed by the Public Demands Recovery Act, 1895. (Bengal Act I of 1895),
see the revised edition as modified up to 1st April 1897. published by the Legislative Depart-
ment of the Government of Bengal.

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

**Act VI
of
1889.***(See section 11.)*

In the Court of

To *A. B.*

Whereas you applied on the _____ day of _____
 for a certificate under the Succession Certificate Act, 1889, in respect of the
 following debts and securities, namely:—

Debts.

Serial Number.	Name of Debtor.	Amount of Debt, including Interest, on Date of Application for Certificate.	Description and Date of Instrument, if any, by which the Debt is secured.

Securities.

Serial Number.	DESCRIPTION.			Market Value of Security on Date of Application for Certificate.
	Distinguish- ing Number or Letter of Security.	Name, Title or Class of Security.	Amount or Par Value of Security.	

This certificate is accordingly granted to you and empowers you to
 collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*]
 [*to transfer*] [*those securities*].

Dated this

day of

District Judge.

ACT VIII OF 1889.*

Act VI
of
1889.

RECEIVED THE G.-G.'s ASSENT ON THE 22ND MARCH 1889.

An Act to amend the Sea Customs Act, 1878 †

WHEREAS it is expedient to amend the Sea Customs Act, 1878,
 †; It is hereby enacted as follows:—

Sea Customs Act, 1878.

Amendment of section
 37, Act VIII, 1878.

1. For the provisos to section 37 of the Sea
 Customs Act, 1878, the following proviso shall
 be substituted, namely:—

“ Provided that, if such goods are warehoused under this Act, the rate
 and valuation (if any) applicable thereto shall be the rate and valuation in
 force on the date on which application is made to clear such goods from the
 warehouse for home-consumption.”

2. In section 115 of the same Act, for the words and figures “ the
 second proviso to section 37 ” the words “ such
 alteration ” shall be substituted.

3—5. [*Amendment of Act XI, 1882.*] *Rep. by the Indian Tariff Act,
 1894 (VIII of 1894).*

* Short title, “ The Sea Customs Act (1878) Amendment Act, 1889,” see the Indian
 Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part V, p. 2 ; for
 Report of the Select Committee, see *ibid.*, p. 37; and for Proceedings in Council, see *ibid.*,
 Part VI, pp. 6, 14 and 60.

The Act is in force in Upper Burma (except the Shan States) as being a portion
 of the original Act VIII of 1878, declared in force there by the Burma Laws Act, 1898
 (XIII of 1898).

† The words “ and the Indian Tariff Act, 1882,” in the title and preamble and the
 heading “ Indian Tariff Act, 1882,” to section 3, have been omitted as the Indian Tariff
 Act, 1882 (XI of 1882), and ss. 3 to 5 of this Act have been repealed by the Indian
 Tariff Act, 1894 (VIII of 1894).

Act
of
1889

ACT X OF 1889 INDIAN PORTS. .

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THE FIRST SCHEDULE—

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND OF PAYMENT.

THE SECOND SCHEDULE—

ENACTMENTS REPEALED.

Act 1

1888

Act X
of
1889.

ACT X OF 1889.*

RECEIVED THE G.-G.'s ASSENT ON THE 29TH MARCH 1889.

An Act to consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, commencement
and extent.

1. (1) This Act may be called the Indian Ports Act, 1889; and

(2) It shall come into force on the first day of April, 1889.

(3) It shall extend, save as otherwise appears from its subject or context,—

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855† (*for the Regulation of Ports and Port dues*) or to the Indian Ports Act, 1875;‡

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act:

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law § or rule relating to the customs or any order or direction lawfully made or given pursuant thereto:

(5) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

* For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part V, p. 25; for Report of the Select Committee, see *ibid.*, p. 87; and for Proceedings in Council, see *ibid.*, Part VI, pp. 14, 18 and 111.

† Act XXII of 1855 was repealed by Act XII of 1875.

‡ Act XII of 1875 was repealed by s. 2 of this Act.

§ See the Sea Customs Act, 1878 (VIII of 1878).

) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them, shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act: and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “port” includes also any part of a river or channel in which this Act is for the time being in force:

(2) “port-officer” is synonymous with master-attendant:

(3) “vessel” includes anything made for the conveyance by water of human beings or of property:

(4) “master” when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel:

(5) “pilot” means a person for the time being authorized by the Local Government to pilot vessels:

(6) “ton” means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships: and

(7) “Magistrate” means a person exercising powers under the Code of Criminal Procedure, 1882,* not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

Power to extend or withdraw the Act or certain portions thereof.

4. (1) With the previous sanction of the Governor-General in Council, the Local Government may, by notification in the official Gazette,—

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force; †

now the Code of Criminal Procedure, 1898 (Act V of

† For notifications under sub-section (1) (a) issued by the (1) Government of Bengal see *Calcutta Gazette*, 1886, pp. 1137 and 1476; *ibid.*, 1875, Part I, pp. 1149 and 1506; *ibid.*, 1858, pp. 575 and 1067. These notifications were issued under corresponding provisions of previous Acts, and are kept in force by s. 2 (2) of this Act; (2) Government of Bombay, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, p. cxxx; (3) Government of Madras, see *Madras List of Local Rules and Orders*, Vol. I, Ed. 1898, p. 228.

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of
1875

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended ; *

withdraw this Act, or section 31 or section 32, from any port or any part thereof in which it is for the time being in force.†

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.‡

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression " high-water-mark " means the highest point reached by ordinary spring tides at any season of the year.

5. (1) The Local Government may, with the previous sanction of the Governor-General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.§

Alteration of limits of ports.

When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

* For notifications under sub-section (1) (b) issued by the (1) Government of Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxxx ; (2) Chief Commissioner of Burma, see Burma Laws List, Ed. 1897, p. 272. These notifications were issued under the corresponding provisions of the previous Acts and are kept in force by s. 2 (2) of this Act ; (3) Government of Madras, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, pp. 228 and 229.

† For instance of a notification issued under clause (c) of s. 5 of Act XII of 1875, corresponding to clause (c), s. 4 (1) of this Act, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 228. The notification is kept in force by s. 2 (2) of this Act. In Bengal, for notification withdrawing a port from the operation of s. 31, see Calcutta Gazette, 1891, Part I, p. 425.

‡ For lists of notifications defining the limits of ports in (1) Bengal, see Calcutta Gazette, 1881, Part I, p. 376 ; *ibid.*, 1888, pp. 575 to 576 ; *ibid.*, 1881, Part I, pp. 377 to 379 ; *ibid.*, 1884, Part I, p. 1101 ; (2) Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxxx ; (3) Burma, see Burma Laws List, Ed. 1897, p. 272 ; (4) Madras, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, pp. 229 to 231.

§ For lists of notifications defining and altering the limits of ports in (1) Bengal, see Calcutta Gazette, 1897, Part I, p. 326 ; *ibid.*, 1897, pp. 324 and 1213 ; (2) Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxxx ; (3) Burma, see Burma Laws List, Ed. 1897, p. 272 ; (4) Madras, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, pp. 229 to 231.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—*

Power to make port-rules.

† (a) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on which vessels generally, or vessels of any class defined in the rules, may enter, leave or be moved in any port subject to this Act ;

(b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port ;

(c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels ;

(d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port ;

(e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged ;

(f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free ;

(g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port ;

(h) for regulating the moving and warping of all vessels within any such port and the use of warps therein ;

* For rules issued under s. 6, for (1) Bengal Ports, see *Calcutta Gazette*, 1891, Part I, p. 391 ; *ibid.*, 1894, Part I, p. 1053 ; *ibid.*, 1895, Part I, p. 941 ; *ibid.*, 1884, Part I, p. 1101 ; *ibid.*, dated 4th June 1890, Appendix, p. i ; *ibid.*, 1893, Part I, pp. 262 and 949 ; *ibid.*, 1897, Part I, p. 290 ; *ibid.*, 1879, Part I, p. 130 ; (2) Bombay Ports, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1898, pp. cxxxi and cxxxii ; (3) Madras Ports, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, pp. 231 to 234 ; (4) Burma Ports, see Burma Laws List, Ed. 1897, pp. 274 to 276 ; (5) Special for the port of Tuticorin, see *Fort St. George Gazette*, 1897, Part I, p. 828 ; (6) Rangoon, as to navigation, see *Burma Gazette*, 1898, Part I, p. 567 ; (7) For rules under this section regulating the use of signals by steam whistle in the port of Calcutta, see *Calcutta Gazette*, 1898, Part I, p. 894.

† This clause was substituted for the original cl. (a) by Act V of 1891, s. 1. For saving of past rules respecting the moving of vessels in ports, see *ibid.*, s. 2. The original clause was as follows:—“(a) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act.”

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- (i) for regulating the use of the mooring buoys, chains and other moorings in any such port ;
- (j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government ;
- (k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not and whether regularly or only occasionally, in or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessels ;
- (l) for regulating the use of fires and lights within any such port ;
- (m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port ;
- (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port ;
- (o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port ; . . .*
- † (p) with the previous sanction of the Governor-General in Council, for the establishment and regulation of places to be used as sanatoria for the segregation, or as hospitals for the treatment of persons who are or have recently been suffering from any dangerous infectious or contagious disease, and for regulating the action, including the disposal of dead bodies, to be taken—
 - (i) where a vessel on which there is any case of dangerous infectious or contagious disease common in India, enters or is in any such port ;
 - (ii) where a vessel on which there is any case of dangerous infectious or contagious disease uncommon in India, enters or is in any such port ;
 - (iii) where a vessel on which there has been any case of dangerous infections or contagious disease or any death within twelve days previous to the arrival of the vessel at such port, enters or is in any such port ;
 - (iv) where a vessel enters any such port from a part in which, or in the neighbourhood of which, there is believed to be or to have been at the time when the vessel

* The word "and" was repealed by the Indian Ports Act (1889) Amendment Act, 1896 (IV of 1896).

† Clause (.) was substituted by Act III of 1901, s. 2. For rules under this clause for the port of Calcutta, see *Calcutta Gazette*, 1890, Part I, p. 740 ; *ibid.*, 1897, Part I, p. 483.

- left such port, any dangerous infectious or contagious disease uncommon in India ;
- (v) where a vessel enters any such port having on board any person transhipped from a vessel coming from a port in which or in the neighbourhood of which there is believed to be or to have been at the time when such last-mentioned vessel left such last-mentioned port any dangerous infectious or contagious disease uncommon in India ;
- (vi) where there is a dead body on board a vessel in any such port ;
- (vii) where there are on board a vessel in any such port food-stuffs which, owing to decomposition or for any other reason, are, in the opinion of the Health Officer, unfit for human consumption ; or
- (viii) where a vessel leaves any such port while there is in the port or in its neighbourhood any dangerous infectious or contagious disease uncommon in India.

For the purposes of this clause only, such diseases shall be deemed to be dangerous infectious or contagious diseases, or diseases common or uncommon in India as the Governor General in Council may by order direct.‡ [and]

(g) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel—

- (i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew ;
- (ii) to erect windsails so far as the existing port-holes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew ;
- (iii) when the deck is made of iron and not wood-sheathed, to cover with wooden planks or other suitable non-conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew ;
- (iv) when the quarters used by the crew and the galley are separated by an iron bulkhead only, to furnish a temporary screen of some suitable non-conducting material between such quarters and the galley.

The word " and " and cl. (g) were added by the Indian Ports Act (1889) Amendment Act, 1896 (IV of 1896), s. 1. For rules under cl. (g) for the port of Calcutta, see *Calcutta Gazette*, 1898, Part I, p. 182.

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of
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(1) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication :

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of this Act and continued by section 2, sub-section (2).

*(3) If any person disobeys any rule made under clause (p) of such section (1), he shall be punished for every such offence with fine which may extend to one thousand rupees.

*(4) If a master fails wholly or in part to do any act prescribed by any rule made under clause (p) of sub-section (1), the Health Officer shall cause such act to be done, and the reasonable expenses incurred in doing such act shall be recoverable by him from such master.

CHAPTER III.

PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

7. (1) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body.†

(2) Subject to any direction by the Local Government to the contrary,—

(a) in ports where there is a port-officer, the port-officer shall be the conservator ;

(b) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.

(3) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(4) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.‡

8. (1) The conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been

* These two sub-sections were added by Act III of 1901, s. 2.

† For notifications appointing conservators for ports in (1) the Bengal Presidency, see *Calcutta Gazette*, 1876, Part I, p. 1281 ; *ibid.*, 1883, Part I, p. 778 ; *ibid.*, 1889, Part I, p. 304 ; (2) the Bombay Presidency, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, p. cxxxiii ; (3) the Madras Presidency, see *Madras List of Local Rules and Orders*, Vol. I, Ed. 1898, p. 235 ; (4) Burma, see *Burma Laws List*, Ed. 1897, pp. 277 and 278.

‡ For notification appointing intermediate authorities at all ports in (1) the Bombay Presidency, except Bombay, Aden and the ports in Sindh, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, p. cxxxiii ; (2) Burma, see *Gazette*, 1894, Part I, p. 370.

given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(3) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

9. The conservator of any such port may, in case of urgent necessity, cut or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

Power to cut warps and ropes.

10. (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

Removal of obstructions within limits of port.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction ;

Recovery of expenses of removal.

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same ;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs ;

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and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law * relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator; and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

14. (1) If any vessel is wrecked, stranded or sunk in any such port so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto :

* See now the Land Acquisition Act, 1894 (I of 1894).

Provided that the person makes his claim within three years from the date of the sale.

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15. (1) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

Power to board vessels and enter buildings.

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

Power to require crews to prevent or extinguish fire.

(2) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders, shall be punished with fine which may extend to twenty-five rupees.

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer and may suspend or remove from office any officer so appointed.

Appointment and powers of health-officer.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely :—*

(a) with respect to any vessel, the powers conferred on a shipping-master by Act I of 1859, section 71 ; †

* For notifications appointing health-officers for ports in (1) Madras, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 235 ; (2) Burma, see *Burma Gazette*, 1894, Part I, p. 261.

† The Indian Merchant Shipping Act, 1859.

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- (b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel ;
- (c) power to require and enforce the production of the law-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel ;
- (d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask ;
- (e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel :

Indemnity of Government against act or default of port-official or pilot.

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

19. (1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

Injuring buoys, beacons and moorings.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

Wilfully loosening vessel from moorings.

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, Improperly discharging ballast. without lawful excuse, be cast or thrown into any such port or into or upon any place on shore from which the same is liable to be washed into any such port either by ordinary or high tides. or by storms or land-floods.

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown, shall be punished with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the Local Government.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, Graving vessel within prohibited limits. or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place Boiling pitch on board vessel within prohibited limits. within its limits where such act is prohibited by the Local Government,* or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which Drawing spirits by unprotected artificial light. may extend to two hundred rupees each.

25. (1) Every master of a vessel in any port subject to this Act shall, Warping. when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

For instance of a notification issued under s. 23, see *Burma Gazette*, 1891, Part I, p. 6.

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(2) A-master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

Leaving out warp or hawser after sunset.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

27. If any person, without lawful excuse, discharges any fire-arms in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

Discharge of fire-arms in port.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty on master omitting to take order to extinguish fire.

29. (1) No person, without the permission of the conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

Unauthorized person not to search for lost stores.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

30. (1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port ;

Removing stones or injuring shores of port prohibited.

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in or overlook the performance of such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board;

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(3) Nothing in sub-sections (1) and (2) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay.

(4) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects, or refuses without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

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CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

33. (1) In each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule as the Local Government directs,* shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) Whenever the Local Government, with the previous sanction of the Governor-General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

(a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(c) the times at which such vessels are to be so chargeable.

(3) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(4) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

34. The Local Government may exempt † the vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them :

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

* For notifications fixing such rates for ports in (1) Bengal, see *Calcutta Gazette*, 1892, Part I, p. 878, *ibid.*, 1881, Part I, pp. 375, 376 and 379, *ibid.*, 1890, Part I, p. 699, *ibid.*, 1893, Part I, p. 131, *ibid.*, 1894, Part I, p. 1245 ; (2) the Bombay Presidency, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxxxiii ; (3) the Madras Presidency, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 235 ; (4) Burma, see Burma Laws List, Ed. 1897, p. 278.

† For instances exempting vessels from the payment of port-dues, see *Fort St. George Gazette*, 1898, Part I, p. 695 ; *Burma Gazette*, 1892, Part I, p. 57 ; and *Calcutta Gazette*, 1893, Part I, p. 131, *ibid.*, 1894, Part I, p. 1245.

35. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct : *

Fees for pilotage and certain other services.

Provided that, in the case of fees for pilotage, the previous sanction of the Governor-General in Council has been obtained.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

36. (1) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.†

Receipt, expenditure and account of port-charges.

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract in such form as that Government prescribes, of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor-General in Council may determine, shall be charged in the port fund account of the port.

(4) All moneys received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

(a) fines,

(b) proceeds of waifs, and

(c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

* For notifications prescribing fees for services mentioned in this section in ports in (1) Bengal, see *Calcutta Gazette*, 1897, Part I, p. 602, *ibid.*, 1884, Part I, p. 1101, *ibid.*, 1889, Part I, p. 199, and *ibid.*, 1894, Part I, p. 1245 ; *ibid.*, 1878, p. 182 ; (2) the Bombay Presidency, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, p. cxxxiv ; (3) the Madras Presidency, see *Madras List of Local Rules and Orders*, Vol. I, Ed. 1888, pp. 235 and 236 ; (4) Burma, see *Burma Laws List*, Ed. 1897, pp. 278 and

† For notifications (1) appointing persons to collect dues, etc., in certain ports in (a) the Bengal Presidency, see *Calcutta Gazette*, 1890, Part I, p. 677 ; *ibid.*, 1889, pp. 397, 595 and 691, *ibid.*, 1890, Part I, p. 64 ; and (b) in the Bombay Presidency, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, pp. cxxxiv and cxxxv ; (2) as to disposal of group dues levied at certain ports in the Madras Presidency, see *Madras List of Local Rules and Orders*, Vol. I, Ed. 1896, p. 236.

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shall be credited in the port fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

(a) the pay and allowances of all persons upon the establishment of the port,

(b) the costs of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,

(c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,

(d) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence* and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to vessels in the port, and

(e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily invested in such manner as the Local Government may direct.

37. (1) The Local Government may direct that for the purposes of the

Grouping of ports.

last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under subsection (4) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports:

Provided, with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karachi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

* For notification making provision as to maintenance of office of Health-officer for the Port of Bombay, see Bombay List of Local Rules and Orders, Vol. I. Ed. 1896, p. cxxxv; for notification directing the levy of hospital port-dues in the Port of Calcutta, see *Calcutta Gazette*, 1886, Part I, p. 994.

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely :—

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(a) the Local Government, in the exercise of its control over expenditure debitable to the common port fund account of the group, may, with the previous sanction of the Governor-General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorized by this Act, and shall cause effect to be given to any directions which the Governor-General in Council may deem it necessary to issue with respect to such expenditure; and

(b) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

38. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant Receipts for port-charges. to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

39. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying to and from any of the ports subject to this Act or to ballam boats plying to and from the port of Chittagong.

40. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed :—

Conservator may in certain cases ascertain draught and charge expense to master.

(1) (a) If the vessel is a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other

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time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

- (b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.
- (2) If the vessel is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.
- (3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto or any part thereof, and detain the same until the amount due is paid :

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or

arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

No port-clearance to be granted until port-charges are paid.

43. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

(a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act ;

(b) until all expenses, which by the Merchant Shipping Act, 1854, section 228,* are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

44. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under section 42, and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

45. (1) If the master of a vessel evades the payment of any such sum as is mentioned in section 43, he shall be punished with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section (2), stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), s. 209.

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caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

46. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government* and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

47. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passenger or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable:†

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort Saint George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

48. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.

49. (1) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

* For notifications issued under this power by (1) the Government of Bombay, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, p. cxxxv; (2) the Government of Madras, see *Madras List of Local Rules and Orders*, Vol. I, Ed. 1898, p. 237, and *Fort St. George Gazette*, 1898, Part I, p. 696.

† For notifications issued under s. 47 by (1) the Government of Bengal, see *Calcutta Gazette*, 1889, Part I, p. 968; (2) the Government of Bombay, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, p. cxxxv; (3) the Government of Burma, see *Burma Gazette*, 1892, Part I, p. 57; (4) the Government of Madras, see *Madras List of Local Rules and Orders*, Vol. I, Ed. 1898, p. 237, and *Fort St. George Gazette*, 1898, Part I, p. 697.

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section.

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (1) or withdraw any exemption under sub-section (4).

50. (1) Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(2) The Local Government shall publish annually in the official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

CHAPTER VI.

HOISTING SIGNALS.

51. (1) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punished for every such offence with fine which may extend to one thousand rupees.

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Pilot to require master to hoist number.

52. (1) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a pilot withdrawn.

Penalty on pilot disobeying provisions of this Chapter.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punished for every such offence with fine which may extend to one hundred rupees.

Penalty for disobedience to rules and orders of the Local Government.

55. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

56. (1) In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

Costs of conviction.

(2) Such costs may be assessed by the Magistrate and may be recovered in the same manner as any fine under this Act.

57. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate, upon application made to him for that purpose by either of the disputing parties.

Ascertainment and recovery of expenses and damages payable under this Act.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment recover the sum as if it were a fine.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

60. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

61. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

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CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. (1) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854,* or any other Statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port, or any officer of Her Majesty's Navy or Indian Marine Service, may enter on board any such vessel and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

63. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Merchant Shipping Act, 1854.† has by an order of Her Majesty in Council been, or shall hereafter be declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month :

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

64. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order under the said provisions, shall be recoverable respectively in the manner provided in sections 55 and 57.

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

† See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

65. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

66 Any money contributed before the passing of this Act from any port fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

67. Any local authority in which any immoveable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

68. (1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant * of such conservator or harbour-master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

69. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

70. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

* In the Bombay Presidency officers in charge of customs-houses have been appointed assistants to conservators at each of the ports, see *Bombay Government Gazette*, 1878, Part I, p. 91. The notification issued under the Ports Act, 1875 (XII of 1875), is kept in force by s. 2 of this Act.

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THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF
PAYMENT.

(See sections 1 and 33.)

PART I.—BENGAL.

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same Vessel.
1	2	3	4
Calcutta ..	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton : provided that, in the case of dhonis and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of dhonis and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Onittagong ..	Sea-going vessels of ten tons and upwards, not being ballam-boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
	Ballam-boats ..	Not exceeding one anna per ton.	Whenever the vessel enters the port.

PART I.—BENGAL—concluded.

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Name of Port.	Vessels chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same Vessel.
1	2	3	4
Cuttack Ports,— namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports,— namely, Balasore, Churaman, Laichunpur, Channa, Subarna- rekha, Dhamra (Chandbally) and Sartha.	Ditto	Ditto	* [Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in thirty days.]

PART II.—MADRAS PRESIDENCY.

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same Vessel.
1	2	3	4
Madras	Sea-going vessels of fifteen tons and upwards.	<p><i>Foreign Vessels.</i></p> <p>(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements or Ceylon, calling at Madras, not exceeding four annas a ton.</p> <p>(b) In the case of any other foreign ship or steamer calling at Madras, not exceeding four annas a ton.</p> <p><i>Coasting Vessels.</i></p> <p>(c) In the case of a coasting ship calling at Madras, not exceeding one and a half annas a ton.</p> <p>(d) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton.</p>	<p>The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again.</p> <p>The due is payable on each entry into the port.</p> <p>The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again.</p> <p>The due is payable once in thirty days.</p>

* These words were substituted for the word "ditto" by the Indian Ports Act (1889) Amendment Act, 1894 (II of 1894).

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PART II.—MADRAS PRESIDENCY—continued.

Name of Port.		Vessels charge-able	Rate of Port-dues.	Due how often charge-able in respect of same Vessel.
1		2	3	4
<i>Eastern Group.</i>				
Di-strict.	Port.	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i>	
Ganjam.	1. Gopalpur.		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	2. Sonnapuram.			
	3. Baruva.			
	4. Puri.			
Vizagapatam.	5. Calingapatam.		(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	6. Konada.			
	7. Bimlipatam.			
	8. Vizagapatam.			
Godavari.	9. Pudimadaka.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	10. Pentakota.			
	11. Uppada.			
	12. Cocanada.			
Kistna.	13. Coringa.		(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	14. Bendamurlanka.			
	15. Narsapur.			
	16. Perupalem.			
Nellore.	17. Masulipatam.		<i>Coasting Vessels.</i>	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	18. Penumudi.			
	19. Morutota.			
	20. Nagayalanka.			
Chingleput.	21. Kottapalem.		(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	22. Gangadipalem.			
	23. Nizampatnam.			
	24. Ipurupalem.			
	25. Budduvanipalem.			
	26. Motupalle.			
	27. Kanuparti.			
	28. Kottapatnam.			
	29. Itamukkala.			
	30. Pakala.			
	31. Karidu.			
	32. Ramayapatnam.			
	33. Chennayyapalem.			
	34. Tummalapenta.			
	35. Juvaladinne.			
	36. Iskapallee.			
	37. Punnapudi.			
	38. Maipadu.			
	39. Kistnapatam.			
	40. Pamanji.			
	41. Tupili.			
	42. Dugarazpatnam.			
	43. Pudi.			
	44. Pulicat.			
	45. Ennore.			
	46. Covelong.			

PART II.—MADRAS PRESIDENCY—continued.

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Name of Port.		Vessels charge-able.	Rate of Port-dues.	Due how often charge-able in respect of same Vessel.
1		2	3	4
<i>Eastern Group—contd.</i>				
Dis- trict.	Port.		<i>Foreign Vessels.</i>	
South Arcot.	47. Marakanam.	Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	48. Cuddalore.			
	49. Porto Novo			
	50. Tirumalavasal.			
	51. Kodiyampalaiyam.			
Tanjore.	52. Tranquebar.			
	53. Nagore.			
	54. Negapatam.			
	55. Velankani.			
	56. Toppukurai.		(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	57. Point Calimere			
	58. Mutupet.			
	59. Adirampatnam.			
	60. Gopalapatnam.			
	61. Kattumavadi.			
Madura.	62. Krishnajipatnam.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	63. Ammapatnam.			
	64. Kottaiapatnam.			
	65. Sundarapandiapatnam.			
	66. Passipatnam.			
	67. Damodarapatnam.			
	68. Tondi.			
	69. Nambitalai.		(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	70. Pudupatnam.			
	71. Karangadu.			
Tinnevely.	72. Tirupalakudi.			
	73. Devipatnam.			
	74. Mudiyanpatnam.			
	75. Attankarai.		<i>Coasting Vessels.</i>	
	76. Emanangundu			
	77. Pillaimadam.		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	78. Pamban.			
	79. Ramesvaram.			
	80. Mandapam.			
	81. Vedalai.			
	82. Marakkayapatnam.			
	83. Muttupettai.		(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	84. Kilakarai.			
	85. Ervadi.			
	86. Valinokkam.			
	87. Vaippar.			
	88. Tuticorin.			
	89. Kayalpatnam.			
	90. Kulasekharapatnam.			

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PART II.—MADRAS PRESIDENCY—continued.

Name of Port.		Vessels charge-able.	Rate of Port-dues.	Due how often charge-able in respect of same Vessel.
1		2	3	4
<i>Western Group.</i>				
Dis- trict.	Port.		<i>Foreign Vessels.</i>	
Malabar.	91. Cochin.	Sea-going vessels of fifteen tons and upwards.	(a) In the case of foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	92. Arupuram.		(b) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	93. Kukkuyi.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	94. Madayi.		(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	95. Attakari.			
	96. Chavakad.			
	97. Veliyangod.			
	98. Ponani.			
	99. Kuttayi.			
	100. Parapanna.			
	101. Tanur.			
	102. Parpanangadi.			
	103. Kadalvandi.			
	104. Beypore.			
	105. Molakkadava.			
	106. Calicut.			
	107. Pudiyangadi.			
	108. Ellatturu.			
	109. Kappatta.			
	110. Quilandi.			
	111. Kollam.			
	112. Kadalura.			
	113. Trikodi.			
	114. Kottakkal.			
	115. Bedagara.			
	116. Muttankal.			
	117. Chompayi.			
	118. Kallyi.			
	119. Talayi.			
	120. Tellicherry.			
	121. Dharmapatnam.			
	122. Ezhera.		<i>Coasting Vessels.</i>	
	123. Cannanore.		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	124. Pudiyangadi.		(f) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	125. Palapatnam (Baliapatam).			
	126. Ettikulam.			
	127. Kavvayi.			

PART II.—MADRAS PRESIDENCY—concluded.

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Name of Port.	Rate of Port-dues.	Due how often chargeable in respect of same Vessel.
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Western Group—concl'd.

Dis- trict.	Port.			
	128. Hosdrug		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	129. Baikal.	1 s		
	130. Kasaragod.		(b) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	131. Kumbale.			
	132. Manjesvara.			
	133. Mangalore.			
	134. Mulki.	1 s		
	135. Padubidri.	ons	(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
Can.	136. Ermala.			
	137. Uchhila.			
	138. Kaph.			
	139. Udiyavara.			
So	140. Malpe.	o		
	141. Barkur or Hangarakatta.	se	(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	142. Coondapoor.			
	143. Nyakinakatte (Nayakkan-kottai).			
	144. Baindur.			
	145. Siruru.			
		Sea-going		
			<i>Coasting Vessels.</i>	
			(e) In the case of a coasting ship calling at any port, not exceeding, one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
			(f) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the g

*Explanations to Part II of the First S**Explanation 1.*—In this Part of the Schedule.—

(a) "ship" means a sailing vessel, and "steamer" a steam-vessel:

(b) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the Island of Ceylon or any part of India, between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878;

(c) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port-dues, each of the following pairs of ports namely, Cocanada and Coringa, Nagore and Negapatam, Beypore and Calicut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

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PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in the same month.
	Tug-steamers, ferry-steamers, and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
<i>Northern Group of Ports—</i>			
1. Gogha ..	Sea-going vessels of ten tons and upwards (except fishing boats).	Not exceeding three annas per ton : provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port : provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same time or any other port of the same group within thirty day.
2. Dholera ..			
3. Tankari ..			
4. Dehegam ..			
5. Dehej ...			
6. Broach ..			
7. Bhagwa ..			
8. Surat ..			
9. Matwad ..			
10. Balsar ..			
11. Umarsadi ..			
12. Kolak ..			
13. Kalai ..			
14. Maroli ..			
15. Umbargam ..			
16. Gholwad ..			
17. Dahann Creek			
18. Tarapur ..			
19. Olivara Navapur..			
20. Satpati Creek			
21. Maham (Kelva) ..			
22. Kelva ..			
23. Dantiora ..			
24. Arnala ..			

PART III.—BOMBAY PRESIDENCY—*continued.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how chargeable in respect of same vessel.
3			
<i>Southern Ports.</i>			
1. Bandra ..			
2. Vesava ..			
3. Manori ..			
4. Utan ..			
5. Bassein ..			
6. Bhiwandi ..			
7. Kalyan ..			
8. Thana ..			
9. Trombay ..			
10. Panwel ..			
11. Karanja. ..			
12. Rewas. ..			
13. Nagothna ..			
14. Thal ..			
15. Alibag ..			
16. Revdanda ..			
17. Mandad ..			
18. Bankot ..			
19. Kelshi ..			
20. Harnai ..			
21. Anjanwel ..			
22. Borya ..	} Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid ports dues at any port, shall be chargeable with port-dues again at the same or any other port of the same within thirty days.
23. Jaygad ..			
24. Varada ..			
25. Ratnagiri ..			
26. Burangad ..			
27. Jaytapur ..			
28. Vijaydurg ..			
29. Devgad ..			
30. Achra ..			
31. Malwan ..			
32. Nivti ..			
33. Vengula ..			
34. Redi ..			
35. Terekhol ..			
36. Karwar, including Baitkhol.			
37. Chendya ..			
38. Ankola ..			
39. Gangavali ..			
40. Tadri ..			
41. Kumpta ..			
42. Honawar ..			
43. Murdeshwar.			
44. Shirali. ..			
45. Bhatkal. ..			

**Act X
of
1889.**

PART III.—BOMBAY PRESIDENCY—concluded.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Karachi .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in three months.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden	Sea-going vessels of ten tons and upwards.	Not exceeding three annas per ton.	Once a month.

PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1			4
Rangoon ..	Sea-going vessels of ten tons and upwards.	Not exceeding six annas per ton.	Once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Maulmain ..	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pies per ton.	Ditto.

**Act X
of
1889.**

PART IV.—BURMA—*concluded.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Kyauk-Phyu ..	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Once in sixty days.
Akyab ..	Ditto.	Ditto.	Ditto.
Bassein ..	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Ditto.	Ditto.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pies per ton.	Ditto.
Tavoy ..	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Mergui ..	Ditto.	Ditto.	Ditto.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

See section 2.)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor-General in Council.</i>		
XII of 1875 ..	Indian Ports Act, 1875 ..	So much as has not been repealed
* IX of 1879 ..		that section.
VII of 1880 ..	Indian Merchant Shipping Act, 1880.	The first paragraph of section 72 from and inclusive of the word "Chapter" down to and inclusive of the word "repealed."

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THE SECOND SCHEDULE—concluded.

Number and year.	Subject or title.	Extent of repeal.
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Acts of the Governor-General in Council—concluded.

IV of 1881 ..	Madras Port-dues Act, 1881	The whole.
XVII of 1882 ..	Indian Ports Act, 1882	The whole.
V of 1883 ..	Indian Merchant Shipping Act, 1883..	Section 31.
XI of 1883 ..	Reduction of Port-dues in the Port of Bombay	The whole.
IV of 1884 ..	Indian Explosives Act, 1884	Section 3.
V of 1885 ..	Amendment of the Indian Ports Act, 1875.. .. .	The whole.

Act of the Governor of Fort St. George in Council.

II of 1872 ..	Madras Port Rules	The whole.
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Act of the Lieutenant-Governor of Bengal in Council.

III of 1872 ..	Calcutta Port Commissioners	The whole.
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ACT XIII OF 1889

THE CANTONMENTS ACT.

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ACT XIII OF 1889.*

Act XIII
of
1889.

RECEIVED THE G.-G.'S. ASSENT ON THE 11TH OCTOBER 1889.

An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Cantonments Act, 1889.

(2) It extends to the whole of British India ; † and

(3) It shall come into force on such day ‡ as the Governor-General in Council, by notification in the Gazette of India, appoints in this behalf.

Title, extent and commencement.

2. (1) On and from that day the enactments specified in the schedule are repealed to the extent mentioned in the third column thereof :

Repeal.

(2) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor-General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined, under this Act.

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, Part V. p. 100 ; for Report of the Select Committee, see *ibid.* p. 183 ; and for Proceedings in Council, see *ibid.* Part VI, pp. 108 and 136, and *ibid.* 1889, Part VI, pp. 139 and 165.

This Act has been declared in force in Upper Burma (except the Shan States) by Burma Laws Act, 1898 (XIII of 1898).

The Act has been applied to British Baluchistan by Reg. I of 1890, s. 3, as amended by the British Baluchistan Forest Regulation, 1890 (V of 1890), printed, Baluchistan Code, Ed. 1890, pp. 169 and 103, respectively ; it has been applied to the Agency Territories by the Baluchistan Agency Laws Law, 1890, printed, *ibid.* p. 173, and by Notification No. 91-E.A., dated 24th January, 1898, see *Gazette of India*, 1898, Part I, p. 31.

It has been applied with modifications, by notifications under ss. 4 and 5 of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1871), to the following British Cantonments in Native States, namely :—(1) Sikandarabad (Hyderabad States), see Notification No. 1374-I., dated 25th April, 1892, *Gazette of India*, 1890, Part I, p. 262, as amended by Notification No. 1811-I, B., dated 1st July, 1898 ; *ibid.* 1898, Part I, p. 704 ; (2) Mhow (Indore State) ; (3) Neemuch (Gwalior State) ; (4) Nowgong (Chhatarpur in Bundelkhand) see Macpherson's Lists of British Enactments in force in Native States, Central India, Ed. 1893, pp. 102, 146 and 162, respectively ; (5) Disah ; (6) Bhuj (Cutch State) ; (7) Baroda (Baroda State) see Macpherson's Lists of British Enactments in force in Native States, Western India, pp. 214, 234 and 347, respectively.

† The words "inclusive of Upper Burma," were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (XIII of 1898)

‡ The 1st January, 1890, see *Gazette of India*, 1889, Part I, p. 67^a.

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(3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bazars, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Interpretation.

3. (1) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(a) “officer” means—

- (i) a person who, being an officer within the meaning of the Army Act,* is commissioned and in pay as an officer doing military duty with Her Majesty’s regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and
- (ii) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act:*

(b) “soldier” means a person who is a soldier of Her Majesty’s regular forces within the meaning of the Army Act,* and is not an officer within the meaning of this Act :

(c) “spirituous liquor” means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act :

(d) “intoxicating drug” means opium, ganja, bhang, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act : and

(e) “owner” includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

* The figures “1881” were repealed by the Repealing and Amending Act, 1891 (XII of 1891). For the Army Act, see Supplement to the Collection of Statutes relating to India, Ed. 1881, p. 22.]

The provisions of the General Clauses Acts, 1868* and 1887,* shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor-General in Council.

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of
1889.

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

Cantonments.

4. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the purposes of this Act and of all other enactments for the time being in force,† and may withdraw any such declaration.‡

(2) The Local Government, with the like sanction, may also, by a like notification, define the limits of any cantonment for the like purposes.§

Cantonment Authorities and Magistrates.

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

6. (1) The expression "cantonment authority" as used in this Act means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment.

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted|

* See now the General Clauses Act, 1897 (X of 1897), ss. 20 to 24.

† For notifications declaring places to be cantonments in (1) the Bombay Presidency, see Bombay List of Local Rules and Orders, Vol. I. Ed. 1896, p. cxxxv; (2) Burma, see Burma Laws List, Ed. 1897, p. 294; (3) Central Provinces, see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 257; (4) North-Western Provinces and Oudh, see the North-Western Provinces and Oudh List of Local Rules and Orders, Ed., 1894, p. 127.

‡ For instance of notification withdrawing a declaration as to a place being a cantonment, see *Burma Gazette*, 1886, Part I, p. 125. The notification is kept in force by s. 2 (2) of this Act.

§ For notifications defining the limits or fixing the boundaries of cantonments in (1) Assam, see Assam Manual of Local Rules and Orders, Ed. 1893, pp. 270, 271 and 273 to 275; (2) the Presidency of Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. cxxxv and cxxxvi; (3) Burma see Burma Laws List, Ed. 1897, p. 294; (4) Central Provinces, see Central Provinces List of Local Rules and Orders, Ed. 1896, pp. 251 and 257; (5) Madras, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 238; (6) North-Western Provinces and Oudh see North-Western Provinces List of Local Rules and Orders, Ed. 1894, pp. 127 to 130.

| For instance of the issue of such a notification, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 130.

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(3) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, *[the Cattle-trespass Act, 1871] the Indian Telegraph Act, 1885, and the General Clauses Act, 1887.†

7. The Cantonment Magistrate shall be a Magistrate appointed by the Cantonment Magistrate. Local Government under section 12 of the Code of Criminal Procedure, 1882,‡ and, as such, subordinate to the District Magistrate or to the District Magistrate and the Sub-divisional Magistrate, as the case may be, under section 17 of that Code.

Cantonment Court of Small Causes.

8. (1) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within a cantonment under the Provincial Small Causes Courts Act, 1887, it shall, in its order appointing him to be such Judge, declare, and may by notification in the official Gazette vary, within a limit of five hundred rupees, the value of the suits which are to be cognizable by him under that Act.

(2) The provisions of section 15, sub-section (3), of the said Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

9. When the Local Government appoints an Additional Judge of a Court of Small Causes, of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial Small Cause Courts Act, 1887.

10. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 of the Provincial Small

* The words "the Cattle-trespass Act, 1871," were substituted for the words "Act XVIII of 1883 (to amend the Cattle-trespass Act, 1871)," by s. 11 of the Cattle-trespass Act (1871) Amendment Act, 1891 (I of 1891).

† See now the General Clauses Act, 1897 (X of 1897), s. 3 (28).

‡ See now the Code of Criminal Procedure, 1898 (Act V of 1898).

Cause Courts Act, 1887, and in the absence of any order of the Local Government to the contrary to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act and of which the value does not exceed, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees.

11. A Cantonment Magistrate as Judge of a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of jurisdiction of the Judge presiding over the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

Continuance of jurisdiction of Cantonment Court certain re-duction of jurisdiction of Judge

Cantonment Police.

12. (1) The police-force employed in a cantonment beyond the limits of a presidency-town shall, for the purposes of Act XXIV of 1859* (*for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*) or Act V of 1861 (*for the regulation of Police*) or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council, as the case may be, be deemed to be part of the general police-establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

Police.

(2) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of Act V of 1861.

CHAPTER III.

• SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

13. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification † in the official Gazette, prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier knowingly barter, sell or supplies, or offers or attempts to barter, sell or supply any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written permission of the commanding officer of

Unauthorised sale of spirituous liquor or intoxicating drug.

* Printed, Madras Code, Ed. 1888, p. 139.

† For notifications issued under s. 13 in (1) the Bombay Presidency, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. cxxxv and cxxxvi; (2) Burma, see Burma Gazette, 1895, Part I, p. 186; (3) North-Western Provinces and Oudh, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 130 and 131.

Act XIII of 1889. the cantonment or of some person authorized by the commanding officer to grant such permission, he shall be punished with a fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

14. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf—
 Unauthorized possession of spirituous liquor.

(a) any person subject to military law otherwise than as an officer or soldier, or

(b) the wife or servant of any such person or of a soldier,

has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any spirituous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorized by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

15. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment, or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(3) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882,* anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

now the Code of Criminal Procedure, 1898 (Act V of 1898).

- 16.** The foregoing provisions of this Chapter shall not apply to the **Act XII of 1889.**
 Saving of articles sold or supplied for medicinal purposes. sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

- 17.** (1) With the previous sanction of the Governor-General in Council, the Local Government may, by notification in the official Gazette—
 General power of taxation.

(a) impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territories administered by such Government,* and

(b) abolish or modify any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government, with the like sanction, may, by a like notification, apply or adopt to the cantonment the provisions of any enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.†

- 18.** (1) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX of 1856‡
 Extension of Act XX of 1856 to certain cantonments. (to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazaars in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality and which is situated in any part of British India in which that Act is in force, and

* For notifications imposing taxes in cantonments in (1) Assam, *see* Assam Manual of Local Rules and Orders, Ed. 1894, pp. 268 and 269; (2) Bombay Presidency, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. cxxxvii and cxxxviii; (3) Burma, *see* Burma Laws List, Ed. 1897, p. 296; (4) Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, pp. 253 and 254 to 256; (5) Madras *see* Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 298; (6) North-Western Provinces and Oudh, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 131 to 141.

† For notifications prescribing rules for the assessment and recovery of taxes imposed in cantonments in (1) the Bombay Presidency, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. cxxxix and cxi; (2) Burma, *see* Burma Laws List, Ed. 1897, pp. 296 and 298; (3) Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, pp. 253 to 256; (4) Madras, *see* Madras List of Local Rules and Orders, Vol. I, Ed. 1898, pp. 238 and 239; (5) North-Western Provinces and Oudh, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 131 to 141.

‡ Printed, Punjab Code, Ed. 1888, p. 15, North-Western Provinces and Oudh Code, Ed. 1892, p. 78, and Ajmere Code, Ed. 1893, p. 27.

Act XIII of 1889. the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 * have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(3) The Local Government may, by notification in the official Gazette cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto or according to the annual value of houses and grounds, is levied under Act XX of 1856 * in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be,† [shall not be leviable in the cantonment in pursuance of a notification under section 17 of this Act.]

20. (1) Notwithstanding anything in any enactment for the time being in force, the Governor-General in Council may, by notification in the Gazette of India prohibit the levy of the whole or any part of any tax imposed in a cantonment,‡ or exempt any person by name or in virtue of his office or any class of persons, § or any property or any class of property, || from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(2) Where the area, subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in

* Printed, Punjab Code, Ed. 1888, p. 15, North-Western Provinces and Oudh Code Ed. 1892, p. 78, and Ajmere Code, Ed. 1893, p. 27.

† These words were substituted for the words "shall not be imposed under section 17 of this Act in the cantonment" by the Repealing and Amending Act, 1891 (XII of 1891). This amendment is to have effect as from the commencement of Act XIII of 1889. See s. 2 (3) of Act XII of 1891.

‡ For notification exempting from octroi-duty, fodder brought into cantonments for use of Native Sillahdar Cavalry Regiments, see *Gazette of India*, 1895, Part I, p. 76.

§ For notification exempting certain persons when on duty in cantonments, brought under the operation of a Municipal Act, from certain taxes, see *Gazette of India*, 1881, Part I, p. 758. The notification is kept in force by s. 2 (2) of this Act.

For notification exempting departmental and honorary commissioned and warrant officers and departmental non-commissioned officers from the conservancy tax imposed in cantonments in Burma see *Gazette of India* 1895, Part I, p. 722.

|| For notification exempting houses in certain cases from house-tax, see *Gazette of India*, 1894, Part I, p. 492.

any other enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment. **Act XIII of 1889.**

Cantonment Fund.

21. (1) There shall be formed for every cantonment which is not included in a municipality a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely :—

(a) subject to deductions under section 545 of the Code of Criminal Procedure, 1882,* or under any other enactment for the time being in force, or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council, or against the provisions of Chapter XIII or Chapter XIV of the Indian Penal Code or of section 156 of the Army Act. . . †

(b) the proceeds of taxes imposed under section 17 or levied under Act XX of 1856 ‡ in the cantonment ; and

(c) rents and profits accruing from property placed by the Government under the management of the cantonment authority

(2) Notwithstanding any thing in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily quartered therein or of any detachment of any such force.

22. (1) Where, in or near a cantonment there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

Custody of cantonment fund.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

† The figures "1881" were repealed by the Repealing and Amending Act, 1891 (XII of 1891). For the Army Act, see supplement to the Collection of Statutes relating to India, Ed. 1881, p. 22.

‡ Printed, Punjab Code, Ed. 1888, p. 15, North-Western Provinces and Oudh Code, Ed. 1892, p. 78, and Ajmere Code, Ed. 1893, p. 27.

**Act X (II
of
1889.**

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person, acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

23. The cantonment fund shall be vested in Her Majesty, and, subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

Vesting and management of cantonment fund.

24. The cantonment fund shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the Land Acquisition Act, 1870, * and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

Acquisition of immoveable property at cost of cantonment fund.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

25. The Governor-General in Council may, by notification in the Gazette of India, extend to all cantonments or to any cantonment or to any part of any cantonment any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

Extension of enactments to cantonments.

26. The Governor-General in Council may make rules consistent with this Act to provide for all or any of the following matters,† namely:—

Matters respecting which rules may be made.

- (1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made ;
- (2) the conditions to be annexed to every such permission given in pursuance of such an application ;
- (3) the preparation and maintenance of registers of immoveable property in cantonments ;
- (4) the constitution of cantonment committees, the functions to be discharged by them, the conduct of, and the control to be exercised over, their proceedings, and the division of duties among the members of such committees ;

* See now the Land Acquisition Act, 1894 (I of 1894).

† For some rules made under this section, see *Gazette of India*, 1896, Part I, pp. 379 and 463.

**Act XII
of
1889.**

- (5) the function to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened ;
- (6) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment ;
- (7) the purposes to which the cantonment fund may be applied ;
- (8) the authority on which money may be paid from the cantonment fund ;
- (9) the investment of any balance of that fund ;
- (10) the execution of contracts by, or on behalf of, the cantonment authority ;
- (11) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published ;
- (12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor-General in Council, been made under section 25 ;
- (13) the requisition which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions ;
- (14) the prevention of the overcrowding of buildings and places in a cantonment ;
- (15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary walls, hedges and other fences ;
- (16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands ;
- (17) the regulation of encamping-grounds,* sarais, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies ;
- (18) the use and management of burial and burning grounds ;
- (19) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof ;
- (20) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the

**Act XIII
of
1859.**

profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons ;

(21) the prevention of the spread of infectious or contagious disorders within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease ;*

(22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction of animals suffering or supposed to be suffering from any infectious or contagious disease ;

(23) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code, or section 156 of the Army Act, . . . † or have been ordered under the Code of Criminal Procedure, 1882, ‡ to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment with or without assigning any reason for excluding them therefrom ;

(24) the prevention of cruelty to animals and the care of animals while grazing ;§

(25) the prevention and extinction of fires ;

(26) the registration of births and deaths ;

(27) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments, to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder ;

(28) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences ;

(29) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed ;

* For rules of this nature, see *Gazette of India*, 1897, Part I, p. 941.

† The figures " 1881 " were repealed by the Repealing and Amending Act, 1891 of 1891). For the Army Act, see Supplement to the Collection of Statutes relating to India, Ed. 1881, p. 22.

‡ See now the Code of Criminal Procedure, 1898 (Act V of 1898).

§ For special Act for the prevention of cruelty to animals, see Act XI of

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of
1889.**

(30) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from ; and

(31) generally, the carrying out of the purposes of this Act. . . . *

27. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette

Supplemental provisions
respecting rules.

of India and in such other manner as the Governor-General in Council prescribes.

(2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor-General in Council directs.

(3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.

(4) In making any rule under clause (12) or any of the following clauses of the last foregoing section, the Governor-General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

28. The Local Government may, by notification in the official Gazette, and subject to any conditions as to compensation or otherwise which it may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—

Extension of certain
enactments and rules to
places beyond cantonment.

(a) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25, or

(b) any rule in force in the cantonment or any part thereof under clause (12) or any of the following clauses of section 26, as well as any direction there in force under sub-section (4) of section 27 ;

and the enactment, rule or direction specified in the notification shall, so long as the notification remains uncanceled, apply to that area as if the area were included in the cantonment. †

* The proviso which was added after cl. (31) by the Cantonments Act Amendment Act, 1895 (V of 1895), s. 2, was repealed by the Cantonments Act, 1897 (XV of 1897).

† For instances of notifications issued under the power conferred by this section, see Burma Laws List, Ed. 1897, p. 300 ; and North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 141 and 142. See now the Code of Criminal Procedure, 1898 (Act V of 1898).

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of
1889.**

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882,* to be a party to, or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment or because he has ordered or approved the prosecution.

30. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate [or commanding, medical or other officer] † for anything in good faith done or purporting to be done in pursuance of powers conferred by or under this Act on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

32. (1) Section 54, paragraphs 2 and 3, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument shall, on and from the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

33. The Governor-General in Council may, by notification in the Gazette of India, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

† These words were substituted for the words "or commanding officer" by s. 8 of the Cantonments Act Amendment Act, 1897 (XV of 1897).

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

**Act XII
of
1889.**

Number and year.	Subject or Title.	Extent of Repeal.
1	2	3
<i>Acts of the Governor-General in Council.</i>		
Act XVIII of 1853 ..	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV of 1854 ..	Sentences of Superintendents of Bazaars.	The whole, so far as it has not been repealed.
Act XLV of 1860 ..	Indian Penal Code ..	The words "or before a Military Court of Request" in <i>Explanation 1</i> to section 193.
Act V of 1869 ..	Indian Articles of War ..	Part III, clause (c) ; and for the last twenty-seven words of Part I, clause (f), the following shall be substituted, namely :— "and officers in charge of the police in cantonments are defined and controlled."
Act VII of 1870 ..	Court-fees Act, 1870 ..	Section 19, clause iv and in Schedule II, article 1, clause (a), the words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859."
*Act XV of 1874	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832 : so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII of 1827 : and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.
*Act XX of 1875	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.
†Act XVIII of 1876.	Oudh Laws Act, 1876 ..	So much as relates to Bengal Regulation XX of 1810.
Act III of 1877	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word "Whenever" and ending with the word "thereof."
‡Act XIV of 1879 ..	Hackney-carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor-General in Council may" down to and inclusive of the words "in which British troops are cantoned."

* Printed, Central Provinces Code, Ed. 1891, p. 76.

† Printed, North-Western Provinces and Oudh Code, Ed. 1892, p. 315.

‡ Printed, Punjab Code, Ed. 1888, p. 124; Burma Code, Ed. 1889, p. 34; Central Provinces Code, Ed. 1891, p. 94; North-Western Provinces and Oudh Code, Ed. 1892, p. 362; Coorg Code Ed. 1893, p. 61; Ajmere Code, Ed. 1893, p. 90.

Act XIII
of
1880.

THE SCHEDULE—continued.

Number and Year.	Subject or Title.	Extent of Repeal.
1	2	3

Acts of the Governor-General in Council—concluded.

Act III of 1880 ..	Cantonments Act, 1880 ..	So much as has not been repealed.
* Act XXII of 1881.	Excise Act, 1881 ..	The proviso to section 53.
† Act X of 1882 ..	Code of Criminal Procedure, 1882.	Clause (b) of section 1.
Act XIV of 1882 ..	Code of Civil Procedure.	Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469.
‡

Regulation of the Bengal Code.

Regulation XX of 1810.	Military Bazaars ..	So much as has not been repealed.
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Regulation of the Bombay Code.

§ Regulation XXII of 1827.	Military authority ..	So much as has not been repealed, except sections 40, 41, 42 and 43.
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Acts of the Governor of Fort St. George in Council.

Act IV of 1865 ..	Madras Cantonments ..	The whole, so far as it has not been repealed.
Act I of 1866 ..	Madras Cantonments ..	So much as has not been repealed.

Act of the Governor of Bombay in Council.

Act III of 1867 ..	Bombay Cantonment Act of 1867.	So much as has not been repealed.
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Act of the Lieutenant-Governor of Bengal in Council.

Act VII of 1878 ..	Bengal Excise Act. 1878.	The proviso to section 81.
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Regulation under the Statute 33 Victoria, Chapter 3.

¶ III of 1877 ..	Ajmere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.
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* This Act has now been entirely repealed by the Excise Act, 1896 (XII of 1896).

† Repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

‡ The reference to the Upper Burma Laws Act, 1896 (XX of 1896), has been repealed by the Burma Laws Act, 1908 (XIII of 1908), see the Fifth Schedule.

§ Printed, Bombay Code, Vol. I, Ed. 1894, p. 22.

¶ Printed, Bengal Code, Vol. II, Ed. 1890, p. 366.

¶ Printed Ajmere Code, Ed. 1893, p. 164.

ACT No. XV OF 1889.*

Act XV
of
1889.

RECEIVED THE G.G.'S ASSENT ON THE 17TH OCTOBER 1889.

*An Act to prevent the Disclosure of Official Documents
and Information.*

WHEREAS it is expedient to prevent the disclosure of official documents and information ; It is hereby enacted as follows :—

Title, extent and applica-
tion.

1. (1) This Act may be called the Indian Official Secrets Act, 1889 ; and'

(2) It extends to the whole of British India and applies---

(a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and

(b) to all Native Indian subjects of Her Majesty without and beyond British India.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government whether the place is or is not actually vested in Her Majesty :

(2) Expressions referring to communications include any communication whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated :

(3) " document " includes part of a document :

(4) " model " includes design, pattern and specimen :

(5) " sketch " includes any photograph or other mode of representation of any place or thing : and

(6) " office under Her Majesty " includes any office or employment in or under any department of the Government.

Disclosure of information.

3. (1) (a) Where a person for the purpose of wrongfully obtaining information—

(i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be or.

* For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part. V, p. 206; and for Proceedings in Council, see *ibid.*, Part. VI, pp. 167 and 176.

This Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (I of 1890, s. 3, printed, Baluchistan Code, Ed. 1890, p. 96

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Burma Gazette*, 1893, Part I, p. 154.

**Act XV
of
1889.**

- (ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document sketch, plan, model or knowledge of anything which he is not entitled or obtain, or takes without lawful authority any sketch or plan, or,
- (iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or
- (b) where a person knowingly having possession of, or control over, any such documents sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or
- (c) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dock yard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him, as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and

Breach of official trust.

at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

**Act XV
of
1889.**

(2) A person guilty of a breach of official trust shall—

(a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

5. A prosecution for an offence against this Act shall not be instituted
 Restriction on prosecution. except by or with the consent of the Local Government or of the Governor-General in Council.

**Act XX
of
1889.**

ACT XX OF 1889

RECEIVED THE G.-G.'s ASSENT ON THE 13TH DECEMBER 1889.

An Act to amend Act XXXVI of 1858.

WHEREAS it is expedient to extend the authority of the Governor-General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; It is hereby enacted as follows :—

1. For section 17A of Act XXXVI of 1858 (*an Act relating to Lunatic Asylums*), as amended by Act XVIII of 1886 (*an Act to amend Act XXXVI of 1858*) the following shall be substituted, namely :—

Substitution of new section for section 17A, Act XXXVI, 1858.

“ 17A. In either of the following cases, namely :—

- (a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,
- (b) when it appears to the Governor-General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor-General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within

* For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part V, p. 181; for Report of the Select Committee, see *ibid.*, p. 207; and for Proceedings in Council see *ibid.*, Part VI, pp. 142, 145 and 195.

The Act is in force in the Goalpara District (excluding the Eastern Dvars) as being part of Act XXXVI of 1858 which was extended thereto under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), by Notification No. 1242-J., dated 1st April, 1897, Assam Code, Ed. 1897, pp. 709 and 714; in British Baluchistan, in which Act XXXVI of 1858 was declared in force by the British Baluchistan Laws Regulation, 1890 (I of 1890), printed, Baluchistan Cod. Ed. 1897, p. 69; in the Angul District, in which Act XXXVI of 1858 was declared in force by the Angul District Regulation, 1894 (I of 1894)

It has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), see *Calcutta Gazette*, 1895, Part I, p. 310.

The Act is in force in Upper Burma (except the Shan States) as being part of the original Act XXXVI of 1858, declared in force there by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there by notification under s. 5 of the Scheduled Districts Act 1874 (XIV of 1874), see *Gazette of India*, 1892, Part. I, p. 94.

those limits may send lunatics or any class of lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

Act I
of
1890.

Addition of new section
after section 17B, Act
XXXVI, 1858.

2. After section 17B of the said Act XXXVI of 1858, the following section shall be added, namely :—

"17C. Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and by order of the Governor-General in Council, to any other asylum in any part of British India."

3. [*Repeal of section II, Act XXXVI of 1858.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

ACT I of 1890.*

RECEIVED THE G.-G.'s ASSENT ON THE 14TH FEBRUARY 1890.

An Act to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands ; It is hereby enacted as follows :—

Title, extent and com-
mencement.

1. (1) This Act may be called the Revenue Recovery Act, 1890.

(2) It extends to the whole of British India, † and British Baluchistan ; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "district" includes a presidency-town :

(2) "Collector" means the chief officer in charge of the land-revenue administration of a district ; and

* For Statement of Objects and Reasons, see *Gazette of India*, 1887, Part, V, p. 128; for Report of the Select Committee, see *ibid*, 1890, Part V, p. 11 ; and for Proceedings in Council, see *ibid*, 1887, Part. VI pp. 66 and 67, and *ibid*, 1899, Part VI, pp. 7 and 12.

This Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), see *Calcutta Gazette*, 1892, Part I, p. 448.

It has been declared in force in the Angul District by the Angul District Regulation 1894 (I of 1894).

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

† The words "inclusive of Upper Burma" were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (XIII of 1898).

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1890.

(3) "defaulter" means a person from whom an arrear of land-revenue or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum

3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

Recovery of public demands by enforcement of in other districts than those in which they become payable.

(a) the name of the defaulter and such other particulars as may be necessary for his identification, and

(b) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate proceed to recover the amount stated therein as if it were an arrear of land revenue which had accrued in his own district.

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

Remedy available to person denying liability to pay amount recovered under last foregoing section.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act, as if the sum were payable to himself,

Recovery by Collectors of sum recoverable as arrears of revenue by other public officers or by local authorities.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof, shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

7. Nothing in the foregoing sections shall be construed—

(a) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue,

(b) to authorize the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

8. When this Act has been applied to any local area which is under the administration of the Governor-General in Council, but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.*

Recovery in British India of certain public demands arising beyond British India.

* For notification applying the Act to all territories which are under the administration of the Governor-General in Council, but which are not part of British India.

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of
1890.**

THE SCHEDULE.

CERTIFICATE.

[See section 3, sub-section (1).]

From

The Collector of

To

The Collector of

Dated the of 18 .

The sum of Rs. is payable on
account of by

, son of , resident
of , who is believed (to be
at) (to have property consisting
of at) in your
district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at

A. B.,
r of

ACT II OF 1890.*

RECEIVED THE G.-G.'s ASSENT ON THE 14TH FEBRUARY, 1890.

*An Act to amend Acts XVII of 1864, X of 1865, II of 1874
and V of 1881.*

WHEREAS it is expedient to amend Act XVII of 1864 (*an Act to constitute an office of official Trustee*), the Indian Succession Act, 1865, the Administrator

* Short title, "The Probate and Administration Act, 1890," see the Indian Short Titles Act, 1897 (XIV of 1897).

For statement of Objects and Reasons, see *Gazette of India*, 1889, p. 195; for Report of the Select Committee, see *ibid.*, 1890, Part V, p. 15; for Proceedings in Council, see *ibid.*, 1889, Part VI, pp. 145 and 149, and *ibid.*, 1890, Part VI, p. 16.

Ss. 9 to 15 of the Act have been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1889, p. 597, see *Calcutta Gazette*, 1892, Part I, p. 448.

So far as this Act amends Acts X of 1865, II of 1874, and V of 1881, it is in force in Upper Burma (except the Shan States) as being part of those original Acts, declared in force there by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule to the Act.

The whole Act, II of 1890, however, as a separate Act had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1892, Part I, p. 94.

So far as it amends the Administrator-General's Act, 1874 (II of 1874), it has been extended to the Shan States see the Shan States Laws and Criminal Justice Order, 1895, *Burma Gazette*, 1895, Part I, p. 262.

General's Act, 1874, and the Probate and Administration Act, 1881; It is hereby enacted as follows :—

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of
1890.**

Act XVII of 1864.

Addition to section 1,
Act XVII, 1864.

1. In section 1 of Act XVII of 1864, before the definition of the expression "High Court," the following shall be inserted, namely :—

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor-General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and in relation to the Presidency of Bombay, the Governor of Bombay in Council :"

Insertion of new section
after section 1, Act XVII,

2. After section 1 of the said Act the following shall be inserted, namely :—

"2. In this Act references to the Presidency of Fort William in Bengal, the Presidency of Fort St. George and the Presidency of Bombay shall, as regards all persons for whom the Governor-General in Council has for the time being power to make laws and regulations, be read as references to the Presidency of Bengal, the Presidency of Madras and the Presidency of Bombay, respectively, as those expressions are severally defined in the law for the time being in force relating to the office and duties of Administrator-General."

Substitution of new section
for section 5.

3. For section 5 of the said Act the following shall be substituted, namely :—

Appointment, suspension
and removal of Official
Trustees.

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

Amendment of section 6,
Act XVII, 1864.

4. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

5. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely :—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of

**Act II
of
1890.**

absence, it shall be lawful for the Government to appoint some person to officiate as Official Trustee."

Addition to section 11,
Act XVII, 1864.

6. To section 11 of the said Act the following shall be added, namely :—

" Provided that the High Court, by its order appointing the Official Trustee to be trustee of such property, may, for special reasons to be recorded by the Court, direct that the Official Trustee shall be entitled by way of remuneration in respect of the capital moneys, sums and rents aforesaid, or any of them, to a commission at rates or a rate to be specified in the order and exceeding the rates or rate hereinbefore in this section prescribed."

Addition of sections to
Act XVII, 1864.

7. To the said Act, after section 32, the following shall be added, namely :—

" 33. The Official Trustee shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper.

" 34. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council, upon the occurrence of any vacancy in the office of the Official Trustee of Bengal, may, by notification in the Gazette of India,—

(a) divide the Presidency of Fort William in Bengal into so many Provinces as he thinks fit,

define the limits of each of those Provinces, and

(c) appoint an Official Trustee for each province, and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely :—

(i) the office of Official Trustee of Bengal shall cease to exist :

(ii) the Official Trustee of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Official Trustee of Bengal had and performed as Official Trustee therein :

(iii) the functions of the Government under this Act shall, as regards the territories and dominions included in the Province, be discharged by the Governor-General in Council :

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court of Judicature

at Fort William in Bengal in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf :

(v) in the foregoing provisions of this Act, the word ' Presidency ' shall be deemed to include a Province, the expression ' Chief Justice ' the Chief Justice, senior Judge or sole Judge, as the case may be, of a High Court appointed by the Governor-General in Council under clause (iv) of this sub-section, and the expression ' Advocate-General ' a Government Advocate or other officer appointed by the Governor-General in Council to discharge for a Province the functions under this Act of an Advocate-General for a Presidency : and

(vi) generally, the provisions of the foregoing sections and of any other enactment for the time being in force with respect to the Official Trustee of Bengal shall, in relation to a Province, be construed, so far as may be, to apply to the Official Trustee appointed for the Province under this section.

"(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Fort William in Bengal into Provinces, and to or in which the Official Trustee of Bengal in his representative character was a party or was otherwise concerned, shall be continued as if the notification had not been published, and the Official Trustee of the Province in which the Town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Official Trustee of Bengal, and shall hold and execute the trusts of which immediately before the publication of the notification the Official Trustee of Bengal was trustee in all respects as if he were such successor.

"(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1)."

8. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII of 1864 as amended by this Act.

Official Trustees holding office at commencement of this Act.

The Indian Succession Act, 1865.

Addition of new section after section 326, Act X,

9. After section 326 of the Indian Succession Act, 1865, the following shall be inserted, namely :—

**Act II
of
1890.**

“ 326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.”

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

The Administrator-General's Act, 1881

10. In clause (b) of the definition of the expression “ Presidency of Bengal ” in section 3 of the Administrator-General's Act, 1881, for the words “ British Burma,” and to clause (a) of the definition of the expression “ Presidency of Bombay ” in the same section of that Act the words “ and under the administration of the Chief Commissioner of British Baluchistan ” shall be added.

*Amendment of definitions of “ Presidency of Bengal ” and “ Presidency of Bombay ” in section 3, Act II, 1874.

11. (1) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator-General's Act, 1881, beginning with the words “ If in cases falling within section 36 ” and ending with the words “ as if such letters had been granted to him,” the following shall be substituted, namely :—

Substitution of new paragraph for first paragraph of section 37, Act II, 1874.

“ If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator-General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator-General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him ; ”.

(2) [Repeal of part of s. 5 of the Administrator-General's Act, 1881 (IX of 1881.) Rep. by the Repealing and Amending Act, 1891 (XII of

Addition of new section after section 41, Act II, 1874.

12. After section 41 of the said Act the following shall be inserted, namely :—

**Act II
of
1890.**

41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator-General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Addition to section 64, Act II, 1874.

13. To section 64 of the said Act the following shall be added, namely :—

"The District Judge may cause to be paid out of any property of which he or such officer has charge, or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely :—

- (a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration to his estate and effects,
- (b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant, and
- (c) the relief of the immediate necessities of the family of the deceased, and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made."

Addition to Part VI, Act II, 1874.

14. To Part VI, and after section 66, of the said Act the following shall be added, namely :—

67. The Administrator-General shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

**Act II
of
1890.**

Addition to Act II, 1874,
of a Part respecting the
division of the Presidency
of Bengal into Provinces.

15. To the said Act, after Part VI and
section 67 thereof, the following shall be added,
namely :—

“ PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

“ 68. (1) Notwithstanding anything in the foregoing provisions of this
Division of the Presi- Act, the Governor-General in Council, upon the
dency of Bengal into Pro- occurrence of any vacancy in the office of the
vinces. Administrator-General of Bengal, may, by notifica-
tion in the Gazette of India,—

- (a) divide the Presidency of Bengal, as defined in this Act, into so many
Provinces as he thinks fit,
- (b) define the limits of each of those Provinces, and
- (c) appoint an Administrator-General for each Province.

and, subject to the provisions of this section, the following consequences
shall thereupon ensue, namely :—

- (i) the Office of Administrator-General of Bengal shall cease to exist :
- (ii) the Administrator-General of a Province shall have the like rights
and privileges, and perform the like duties, in the territories
and dominions included in the Province as the Administrator-
General of Bengal had and performed as Administrator-General
therein :
- (iii) the functions of the Government under this Act shall, as regards
the territories and dominions included in a Province, be dis-
charged by the Governor-General in Council :
- (iv) the functions of whatsoever kind assigned by the foregoing pro-
visions of this Act to the High Court at Calcutta in respect of
the territories and dominions included in a Province shall be
discharged by such High Court as the Governor-General in
Council may, by notification in the Gazette of India, appoint in
this behalf, and probate or letters of administration granted to
the Administrator-General of the Province by the High Court
so appointed shall have the same effect throughout the Presi-
dency of Bengal, as defined in this Act, or, if the Court so
directs, throughout British India, as, but for the abolition of the
office of Administrator-General of Bengal, probate or letters of
administration granted to the holder of that office by the High
Court at Calcutta would have had ;

- (v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor-General in Council under clause (iv) of this sub-section, and the expression 'Advocate-General' a Government Advocate or other officer appointed by the Governor-General in Council to discharge for a Province the functions under this Act of an Advocate-General for a Presidency :
- (vi) the provisions of this Act with respect to the commission of the Administrator-General of Bengal shall regulate the commission payable to the Administrator-General of a Province, and
- (vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator-General of Bengal shall, in relation to a Province, be construed, so far as may be, to apply to the High Court and Administrator-General, respectively, appointed for the Province under this section.

"(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator-General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator-General of the Province in which the Town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator-General of Bengal.

"(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1).

Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator-General of the Province in which the Town of Calcutta is comprised shall be deemed to be the Administrator-General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863.* "

The Probate and Administration Act,

Addition of new section
after section 145, Act V,
1881.

16. After section 145 of the Probate and Administration Act, 1881, the following shall be inserted, namely :—

* Printed. Collection of Statutes relating to India, Vol. II, Ed, 1881 p. 771.

**Act III
of
1890.**

“ 145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.”

ACT III of 1890.*

RECEIVED THE G.-G.'S ASSENT ON THE 21ST FEBRUARY 1890.

An Act to amend Acts VI and VII of 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884, and the Indian Steam-ships Act, 1884, in manner hereinafter appearing; It is hereby enacted as follows:—

Inland Steam-vessels Act, 1884.

1. For the definition of “inland water” in section 5, clause (3) of the Inland Steam-vessels Act, 1884, the following shall be substituted, namely:—

“(3) ‘inland water’ means any canal, river, lake or navigable water in British India:”.

Insertion of new section after section 8.

2. After section 8 of the said Act the following shall be inserted, namely:—

* Short title, “The Indian Steam-ships Law Amendment Act, 1890,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part V, p. 154; for Report of the Select Committee, see *ibid.*, 1890, Part V, p. 55; and for Proceedings in Council, see *ibid.*, 1889, Part VI, pp. 129 and 133, and *ibid.*, 1890, pp. 15 and 20.

As far as this Act amends the Inland Steam-vessels Act, 1884 (VI of 1884), it is in force in Upper Burma (except the Shan States) as being part of the original Act declared in force there by the Burma Laws Act, 1898 (XIII of 1898).

Ss. 1 to 14 of the Act had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1891, Part I, p. 554.

"8A. Before a survey under this Act is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

Fees in respect of surveys.

(a) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates ; and

(b) when the survey is to be made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the Local Government, from time to time, by notification in the official Gazette, directs."

3. [*Repeal of part of section 10 (3), Act VI, 1884.* Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

4. (1) *

Amendment of, and addition to, section 11, Act VI, 1884.

(2) To [section 11 of the said Act]† the following sub-section shall be added, namely :—

"(4) The Local Government may, from time to time, delegate,—

(a) with the previous sanction of the Governor-General in Council, to any person, by name or as holding an office, the function assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section ;

(b) of its own authority, to any person, by name or as holding an office, the function assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery :

" Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorize the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 9."

5. [*Repeal of section 12, Act VI, 1884.*] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

6. In section 17 of the said Act, between the word "which" and the word "granted," in both places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

* Sub-section (1), which repealed the words "fees and other" in s. 11 (1) of the Inland Steam-vessels Act, 1884 (VI of 1884), was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

† The words "section 11 of the 'said Act'" were substituted for the words "the same section" by the Repealing and Amending Act, 1891 (XII of 1891).

**Act III
of
1890.**

7. In section 19, sub-section (1), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

Amendment of section 19, Act VI, 1884.

8. In section 21, sub-section (2), clause (d), of the said Act, for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

Amendment of section 21, Act VI, 1884.

9. [*Insertion of new section after section 25, Act VI, 1884.*] Rep. by the *Inland Steam-vessels Act (1884) Amendment Act, 1891 (XIII of 1891).*

10. [*Amendment of section 26, Act VI, 1884.*] Rep. by the *Inland Steam-vessels Act (1884) Amendment Act, 1891 (XIII of 1891).*

11. [*Addition to section 29, Act VI, 1884.*] Rep. by the *Inland Steam-vessels Act (1884) Amendment Act, 1891 (XIII of 1891).*

Addition to Chapter VII, Act VI, 1884.

12. To Chapter VII of the said Act the following shall be added, namely:—

" 51A. (1) The Local Government may also make rules for the protection of passengers in inland steam-vessels, and may by such rules require, among other matters, a sufficient quantity of fresh water to be provided free of charge in such vessels for the use of passengers, and the prices of passenger-tickets to be printed or otherwise denoted on such tickets.

Power for Local Government to make rules for protection of passengers.

" (2) Any rule under this section may contain a provision that any owner, master or passenger committing a breach of it shall be punished with fine which may extend to fifty rupees."

Insertion of new section after section 54, Act VI,

13. After section 54 of the said Act the following shall be inserted, namely:—

" 54A. If an inland steam-vessel has on board thereof or on or in any part thereof a number of passengers which is greater than the number of passengers set forth in the certificate of survey as the number which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and master shall, for every passenger over and above that number, be each liable to a fine which may extend to ten rupees."

Penalty for having excessive number of passengers on board.

Amendment of heading to second schedule, Act VI, 1884.

14. In the second schedule to the said Act, for the words and figures " See section 12 " the words, figure and letter " See section 8A " shall be substituted,

Indian Steam-ships Act, 1884.

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of
1890.**

Insertion of new section
after section 10. Act VII.

15. After section 10 of the said Act the following shall be inserted, namely :—

“ 10A. Before a survey under this Act is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

(a) a fee calculated on the tonnage of the steam-ship according to the rates in the schedule hereto annexed or according to any other prescribed rates ; and

(b) when the survey is to be made in any port of survey* other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port as the Local Government, from time to time, by notification in the official Gazette, directs.”

16. [*Repeal of part of section 12 (3), Act VII, 1884.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

17. (1) *

Amendment of, and addition to, section 13, Act VII, 1884

(2) To [section 13 of the said Act] † the following sub-section shall be added, namely :—

“ (4) The Local Government may, from time to time, delegate,—

(a) with the previous sanction of the Governor-General in Council, to any person by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section ;

(b) of its own authority, to any person by name or as holding an office, the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery :

“ Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorize the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 11.”

18. [*Repeal of section 14, Act VII, 1884.*] *Rep. by the Repealing and Amending Act, 1891 (XII of*

* Sub-section (1), which repealed the words “ fees and other ” in s. 13 (1) of the Indian Steam-ships Act, 1884 (VII of 1884), was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

† The words “ section 13 of the said Act ” were substituted for the words “ the same section ” by the Repealing and Amending Act, 1891 (XII of

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of
1890.**

19. In section 19 of the said Act between the word "which" and the word "granted" in both the places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

Amendment of section
19, Act VII, 1884.

20. In section 21, sub-section (1), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

Amendment of section
21, Act VII, 1884.

21. In section 24, sub-section (2), clause (d), for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

Amendment of section
24, Act VII, 1884.

22. In the schedule to the said Act, for the words and figures "See section 14" the words, figures and letter "See section 10A" shall be substituted.

Amendment of heading
to schedule, Act VII, 1884.

ACT V OF 1890.*

RECEIVED THE G.-G.'S ASSENT ON THE 28TH FEBRUARY

An Act to amend the Indian Forest Act, 1878, and the Burma Forest Act,

WHEREAS it is expedient to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881: It is hereby enacted as follows:—

1. (1) This Act may be called the Forest Act, 1890: and

Title and commencement.

(2) It shall come into force at once.

Indian Forest Act, 1878.

2. (1) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878 ing shall be substituted, namely:—

Amendment of section 2,
Act VII, 1878.

* For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part V, p. 201; for Report of the Select Committee, see *ibid.*, 1890, Part V, p. 59; and for Proceedings in Council, see *ibid.*, 1889, Part VI, pp. 150 and 154, and *ibid.*, 1890, Part VI, pp. 16 and 25.

Ss. 1 (1) and 2 and 4 of this Act have been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1839, p. 597. see *Calcutta Gazette*, 1892, Part I, p. 448.

It is in force in the Angul District so far as it amends the Indian Forest Act, 1878 (VII of 1878), as being part of that Act which was extended to that district by the Angul District Regulation, 1894 (I of 1894).

† For Act XIX of 1881, see the revised edition, as modified up to 1st July 1890, published by the Legislative Department.

“ ‘Tree’ includes palms, bamboos, stumps, brushwood and cane : ”.

(2) For the definition of “ ‘Timber’ ” in the same section the following shall be substituted, namely :—

“ ‘Timber’ includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not : ”.

(3) For the definition of “ ‘Forest-produce’ ” in the same section the following shall be substituted, namely :—

“ ‘forest-produce’ includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say :—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say :—

- (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,
- (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,
- (iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and
- (iv) peat, surface-soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries) : ”.

Amendment of section 4, Act VII, 1878. **3.** For clause (b) of section 4 of the said Act the following shall be substituted, namely :—

“(b) specifying as nearly as possible the situation and limits of such land ; and ”.

Addition to section 5, Act VII, 1878. **4.** To section 5 of the said Act the words “ except in accordance with rules prescribed by the Local Government ” shall be added.

Amendment of section 6, Act VII, 1878. **5.** For clause (a) of section 6 of the said Act the following shall be substituted, namely :—

“(a) specifying as nearly as possible the situation and limits of the proposed forest ; ”.

Addition of new section after section 9, Act VII, **6.** After section 9 of the said Act the following shall be inserted, namely :—

Treatment of claims relating to practice of shifting cultivation. “ 9A. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local

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Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest Settlement-officer may arrange for its exercise—

by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise shifting cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the sanction of the Local Government.

(4) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government.

Amendment of section
25, Act VII, 1878

7. For clause (b) of section 25 of the said Act the following shall be substituted, namely :—

“(b) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest :”.

8. (1) In the heading of Chapter VII of the said Act, for the words
Amendment of Chapters VII and VIII, Act VII, 1878. “OF THE DUTY ON TIMBER” the words “OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE” shall be substituted.

(2) In section 39 of the said Act, after the word “timber” in both places where the word occurs, the words “or other forest-produce” shall be inserted.

(3) In clause (a) of section 41 of the said Act, for the words “and other” the words “or other” shall be substituted.

Addition to section 41,
Act VII, 1878.

(4) To section 41 of the said Act the following shall be added, namely :—

“The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.”

Amendment of section
47, Act VII, 1878.

9. In section 47 of the said Act the words “within three months” shall be substituted for the words “within two months.”

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Addition to section 48.
Act VII, 1878.

10. To section 48 of the said Act, after the word "encumbrances" the words "not created by him" shall be added.

Amendment of section
56, Act VII, 1878.

11. In section 56 of the said Act, for the words "whom he deems to be entitled to the same" the words "whom the Magistrate deems to be entitled to the same" shall be substituted.

Amendment of section
63, Act VII, 1878.

12. In section 63 of the said Act, after the words "before the Magistrate having jurisdiction in the case" the words "or to the officer in charge of the nearest police-station" shall be added.

Amendment of section
67, Act VII, 1878.

13. (1) For section 67 of the said Act the following shall be substituted, namely:—

"67 (1) The Local Government may, from time to time, by notification in the official Gazette, empower a Forest-officer by name, or as holding an office,—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (1), clause (a), shall in no case exceed the sum of fifty rupees."

Addition of new section
after section 83. Act VII.
1878.

14. After section 83 of the said Act the following shall be added, namely:—

"84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any

Recovery of penalties
due under bond.

duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain

from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding

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anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue."

15—22. [*Amendment of the Burma Forest Act, 1881 (XIX of 1881).*] See the revised edition of Act XIX of 1881, as modified up to 1st July, 1890, published by the Legislative Department.

ACT VI OF 1890.*

RECEIVED THE G.-G.'S ASSENT ON THE 7TH MARCH 1890.

An Act to provide for the Vesting and Administration of Property held in Trust for Charitable Purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Charitable Endowments Act, 1890.

(2) It extends to the whole of British India, inclusive of . . . † British Baluchistan; and

(3) It shall come into force on the first day of October, 1890.

2. In this Act "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not

include a purpose which relates exclusively to religious teaching or worship.

3. (1) The Governor-General in Council may appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to any Local Government.‡

(2) Such Treasurer shall, for the purposes of taking, holding and transferring moveable or immoveable property under the authority of this Act, be a corporation sole by the name of the Treasurer of Charitable Endowments

* For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part V, p. 137; for Report of the Select Committee, see *ibid.*, 1890, p. 65; and for Proceedings in Council, see *ibid.*, 1889, Part VI, pp. 117 and 190, and 1890, *ibid.*, Part VI, p. 37.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

The Act has been declared in force in the Santhal Parganas under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1889, p. 597, see *Calcutta Gazette*, 1892, Part I, p. 448.

† The words "Upper Burma, and" were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (XIII of 1898)

‡ For officers appointed under the powers conferred by this section, see *Gazette of India*, 1890, Part I, p. 755.

for the territories subject to the Local Government, and, as such Treasurer, shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

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4. (1) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as hereinafter mentioned, and subject to the other provisions of this section, order, by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

Orders vesting property
in Treasurer.

(2) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(3) A Local Government shall not make an order under sub-section (1) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely :—

- (a) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland ;
- (b) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India ;
- (c) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council ;
- (d) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India ;
- (e) a security expressly authorized by any order which the Governor-General in Council may make in this behalf.

(4) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

5. (1) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government, if it thinks fit, may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, a

Schemes for administration of property vested in the Treasurer.

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person or persons, not being or including such Treasurer, to administer the property.*

(2) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.

(3) A scheme settled, modified or substituted under this section shall, subject to the other provisions of this section, come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead.

Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme or in any way contrary or in addition thereto, a decree or direction regarding the administration of the property to which the scheme relates.

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained, and, in the opinion of the Local Government, effect can reasonably be given to them.

(6) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.

Mode of applying for
vesting orders and schemes.

6. (1) The application referred to in the two last foregoing sections must be made,—

(a) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust, or, where there are more persons than one so acting, then by those persons or a majority of them ; and

if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(2) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

* For schemes settled under this section in (1) the Bombay Presidency, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. 531, 532 and 538—540 ; (2) the Madras Presidency, see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 240 ; (3) North-Western Provinces and Oudh, see the North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 142—148.

Exercise by Governor-General in Council of powers of Local Government.

7. (1) The Governor-General in Council may exercise all or any of the powers conferred on the Local Government by sections 4 and 5.

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of
1890.

(2) When the Governor-General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not without his previous sanction, exercise them with respect thereto.

8. (1) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.

Bare trusteeship of Treasurer.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5, or in both those documents.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section.

Annual publication of list of properties vested in Treasurer.

10. (1) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act, or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

Limitation of functions and powers of Treasurer.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him, and with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub-section (3), clause (a), (b), (c), (d) or (e), or in the purchase of immoveable property.

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(3) When a Treasurer of Charitable Endowments is divested, by a direction of the Local Government or the Governor-General in Council under this section, of any property, it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

11. If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the Governor-General in Council may appoint the same or another officer of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

12. If by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor-General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

13. The Governor-General in Council may frame forms for any proceedings under this Act for which he considers that forms should be provided, and may make such rules* consistent with this Act as he may deem expedient for—

(a) prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments ;

prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments ;

(c) regulating the cases and mode in which schemes or any modifications thereof are to be published before they are settled or made under section 5 ;

(d) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments, and the mode in which such accounts are to be audited ; and

(e) generally, carrying into effect the purposes of this Act.

* For rules made and forms prescribed under the powers conferred by this section, see *Gazette of India*, 1890, Part I, p. 757.

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14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof where the loss or misapplication has been occasioned by or through his wilful neglect or default.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III., Chapter 155,* or of any other enactment for the time being in force, respecting the authority of an Advocate-General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act No. XVII of 1864 (*an Act to constitute an Office of Official Trustee*) † respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

General controlling authority of Governor-General in Council.

16. A Local Government shall, in the exercise of its powers under this Act, be subject to the control of the Governor-General in Council.

* The East India Company Act, 1813, printed, Collection of Statutes relating to India, Vol. I, Ed. 1881, p. 163.

† The Official Trustees Act, 1864.

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GUARDIANS AND WARDS.

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ACT VIII OF 1890.*

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act to consolidate and amend the law relating to Guardian and Ward.

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Guardians and Wards Act, 1890.

(2) It extends to the whole of British India, inclusive of†
British Baluchistan; and

(3) It shall come into force on the first day of July, 1890.

2. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

Repeal.

But all proceedings had, certificates granted, allowances assigned, obligations imposed, and applications, appointments, orders and rules made under any of those enactments shall, so far as may be, be deemed to have been respectively had, granted, assigned, imposed and made under this Act; and

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. This Act shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by the Governor-General in Council or by a Governor or Lieutenant-Governor in Council; and nothing in this Act shall be construed to affect, or in any way derogate from, the

Saving of jurisdiction of Courts of Wards and Chartered High Courts.

* For Statement of Objects and Reasons, see *Gazette of India*, 1886, Part V, p. 77; for Report of the Select Committee, see *ibid.*, 1890, Part V, p. 77; and for Debates in Council, see *ibid.*, 1886, Supplement, pp. 419 and 666, and *ibid.*, 1890, Part VI, pp. 33 and 45.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

The Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Settlement Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1889, p. 597, see *Calcutta Gazette*, 1892, Part I, p. 448.

It has been extended to the Angul District by the Angul District Regulation, 1894 (I of 1894).

It has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam, by notification under s. 3 (b) of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1898, Part I, p. 872.

† The words "Upper Burma, and" were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (XIII of 1898).

jurisdiction or authority of any Court of Wards, or to take away any power possessed by any High Court established under the Statute 24 & 25 Victoria, Chapter 104 (*an Act for establishing High Courts of Judicature in India*). * **Act VII of 1890.**

Definitions. 4. In this Act, unless there is something repugnant in the subject or context,—

(1) “minor” means a person who, under the provisions of the Indian Majority Act, 1875, is to be deemed not to have attained his majority :

(2) “guardian” means a person having the care of the person of a minor or of his property, or of both his person and property :

(3) “ward” means a minor for whose person or property, or both, there is a guardian :

(4) “District Court” has the meaning assigned to that expression in the Code of Civil Procedure, and includes a High Court in the exercise of its ordinary original civil jurisdiction :

(5) “the Court” means the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian ; and, where a guardian has been appointed or declared in pursuance of any such application, it means the Court which appointed or declared the guardian, or, in any matter relating to the person of the ward, the District Court having jurisdiction in the place where the ward for the time being ordinarily resides :

(6) “Collector” means the chief officer in charge of the revenue-administration of a district,† and includes any officer whom the Local Government, by notification in the official Gazette, may, by name or in virtue of his office, appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act :

(7) “European British subject” means an European British subject as defined in the Code of Criminal Procedure, 1882,‡ and includes any Christian of European descent : and

(8) “prescribed” means prescribed by rules made by the High Court under this Act.

* The Indian High Courts Act, 1861, printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 713.

† For appointments of Collectors under this sub-section in (1) the Presidency of Bombay, *see* the Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxliii ; (2) the North-Western Provinces and Oudh, *see* the North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 148.

‡ *See* now the Code of Criminal Procedure, 1898 (Act V of 1898).

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CHAPTER II.

APPOINTMENT AND DECLARATION OF GUARDIANS.

5. (1) Where a minor is an European British subject, a guardian or guardians of his person or property, or both, may be appointed by will or other instrument to take effect on the death of the person appointing,—

Power of parents to appoint in case of European British subjects.

(a) by the father of the minor, or

(b) if the father is dead or incapable of acting, by the mother.

(2) Where guardians have been appointed under sub-section (1) by both parents, they shall act jointly.

6. In the case of a minor who is not an European British subject, nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

Saving of power to appoint in other cases.

7. (1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

Power of the Court to make order as to guardianship.

(a) appointing a guardian of his person or property, or both, or

(b) declaring a person to be such a guardian, the Court may make an order accordingly.

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

8. An order shall not be made under the last foregoing section except on the application of—

Persons entitled to apply for order.

(a) the person desirous of being, or claiming to be, the guardian of the minor, or

(b) any relative or friend of the minor, or

(c) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property, or

(d) the Collector having authority with respect to the class to which the minor belongs.

9. (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

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Court having jurisdiction to entertain application.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

10. (1) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,—

Form of application.

- (a) the name, sex, religion, date of birth and ordinary residence of the minor ;
- (b) where the minor is a female, whether she is married, and, if so, the name and age of her husband ;
- (c) the nature, situation and approximate value of the property, if any, of the minor ;
- (d) the name and residence of the person having the custody or possession of the person or property of the minor ;
- (e) what near relations the minor has, and where they reside ;
- (f) whether a guardian of the person or property, or both, of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment ;
- (g) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result ;
- (h) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property or of both ;
- (i) where the application is to appoint a guardian, the qualifications of the proposed guardian ;
- (j) where the application is to declare a person to be a guardian, the grounds on which that person claims ;
- (k) the causes which have led to the making of the application ; and
- (l) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

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(2) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act and the declaration must be signed by him and attested by at least two witnesses.

11. (1) If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

Procedure on admission
of application.

(a) to be served in the manner directed in the Code of Civil Procedure on—

(i) the parents of the minor if they are residing in British India.

(ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,

(iii) the person proposed in the application or letter to be appointed or declared guardian, unless that person is himself the applicant, and

(iv) any other person to whom, in the opinion of the Court, special notice of the application should be given ; and

(b) to be posted on some conspicuous part of the court-house, and of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

(2) The Local Government may, by general or special order, require that, when any part of the property described in a petition under section 10, sub-section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate, and the Collector may cause the notice to be published in any manner he deems fit.

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (2).

12. (1) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

Power to make interlocutory order for production of minor and interim protection of person and property

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (1) for her production shall require her to be produced in accordance with the customs and manners of the country.

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(3) Nothing in this section shall authorize—

(a) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody with the consent of her parents, if any, or

(b) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.

13. On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application.

Hearing of evidence before making of order.

14. (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself.

Simultaneous proceedings in different Courts.

(2) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

(3) In any other case in which proceedings are stayed under sub-section (1), the Courts shall report the case through the Local Government to the Governor-General in Council, and the Governor-General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

15. (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it thinks fit, appoint or declare them.

Appointment or declaration of several guardians.

(2) On the death of a father, being an European British subject, who has, by will or other instrument to take effect on his death, appointed a guardian of his minor child, the Court may appoint the mother to be guardian of the child jointly with the guardian appointed by the father.

(3) On the death of a mother, being an European British subject, who during the incapacity of the father of her minor child has, by will or other instrument to take effect on her death, appointed a guardian of the child, the Court may, if the father becomes capable of acting, appoint him to be sole

Act VIII of 1890. Government or of such authority as that Government, by notification in the official Gazette,* appoints in this behalf.

Guardian of the Person.

24. A guardian of the person of a ward is charged with the custody of the ward and must look to his support, health and education, and such other matters as the law to which the ward is subject requires.

Duties of guardian of the person.

25. (1) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and for the purpose of enforcing the order may cause the ward to be arrested and to be delivered into the custody of the guardian.

Title of guardian to custody of ward.

(2) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by section 100 of the Code of Criminal Procedure, 1882.†

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

26. (1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

Removal of ward from jurisdiction.

(2) The leave granted by the Court under sub-section (1) may be special or general, and may be defined by the order granting it.

Guardian of Property.

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realization, protection or benefit of the property.

Duties of guardian of property.

28. Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immoveable property belonging to his ward is subject to

Powers of testamentary guardian.

* For notifications appointing authorities to whose control Collectors appointed under the Act shall be subject in (1) the Presidency of Bombay, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 542 ; (2) North-Western Provinces and Oudh, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 148.

† See now the Code of Criminal Procedure, 1898 (Act V of 1898).

any restriction which may be imposed by the instrument, unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

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29. Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court,—

Limitation of powers of guardian of property appointed or declared by the Court.

- (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immoveable property of his ward, or
- (b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

30. A disposal of immoveable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby.

Voidability of transfers made in contravention of section 28 or section 29.

31. (1) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

Practice with respect to permitting transfers under section 2.

(2) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission; and it shall be recorded, dated and signed by the Judge of the Court with his own hand, or when from any cause he is prevented from recording the order with his own hand, shall be taken down in writing from his dictation and be dated and signed by him.

(3) The Court may in its discretion attach to the permission the following among other conditions, namely:—

- (a) that a sale shall not be completed without the sanction of the Court;
- (b) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs;
- (c) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs;

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(d) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs.

Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear and record the statement of any person who appears in opposition to the application.

32. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, the Court may, from time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

Variation of powers of guardian of property appointed or declared by the Court.

33. (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

34. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, he shall,—

Obligations on guardian of property appointed or declared by the Court.

(a) if so required by the Court, give a bond as nearly as may be in the prescribed form, to the Judge of the Court to ensure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward ;

(b) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court or within such other time as the Court directs, a statement of the immoveable property belonging to the ward, of the money and other moveable property which he has received on behalf of

the ward up to the date of delivering the statement, and of the debts due on that date to or from the ward ;

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(c) if so required by the Court, exhibit his accounts in the Court at such times and in such form as the Court from time to time directs ;

(d) if so required by the Court, pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs ; and

(e) apply for the maintenance, education and advancement of the ward and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.

35. Where a guardian appointed or declared by the Court has given a

Suit against guardian
where administration-bond
was taken.

bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court, or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for the ward, in respect of any breach thereof.

36. (1) Where a guardian appointed as declared by the Court has not

Suit against guardian
where administration-bond
was not taken.

given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

(2) The provisions of sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act.

37. Nothing in either of the two last foregoing sections shall be con-

General liability of guard-
ian as trustee.

strued to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in either of those sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

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Termination of Guardianship

38. On the death of one of two or more joint guardians, the
 Right of survivorship among joint guardians. guardianship continues to the survivor or survivors
 until a further appointment is made by the Court.

39. The Court may, on the application of any person interested, or
 Removal of guardian. of its own motion, remove a guardian appointed or
 declared by the Court, or a guardian appointed
 by will or other instrument, for any of the following causes, namely :—

- (a) for abuse of his trust ;
- (b) for continued failure to perform the duties of his trust ;
- (c) for incapacity to perform the duties of his trust ;
- (d) for ill-treatment, or neglect to take proper care, of his ward ;
- (e) for contumacious disregard of any provision of this Act or of any order of the Court ;
- (f) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward ;
- (g) for having an interest adverse to the faithful performance of his duties ;
- (h) for ceasing to reside within the local limits of the jurisdiction of the Court ;
- (i) in the case of a guardian of the property, for bankruptcy or insolvency ;
- (j) by reason of the guardianship of the guardian ceasing or being liable to cease, under the law to which the minor is subject :

Provided that a guardian appointed by will or other instrument, whether he has been declared under this Act or not, shall not be removed—

- (a) for the cause mentioned in clause (g) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or
- (b) for the cause mentioned in clause (h) unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

40. (1) If a guardian appointed or declared by the Court desires to
 Discharge of guardian. his office, he may apply to the Court to be
 discharged.

If the Court finds that there is sufficient reason for the application, it shall discharge him, and if the guardian making the application is the

Collector and the Local Government approves of his applying to be discharged, the Court shall in any case discharge him.

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Cessation of authority of guardian.

41. (1) The powers of a guardian of the person cease—

- (a) by his death, removal or discharge ;
- (b) by the Court of Wards assuming superintendence of the person of the ward ;
- (c) by the ward ceasing to be a minor :
- (d) in the case of a female ward by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit ; or
- (e) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

2) The powers of a guardian of the property cease—

- (a) by his death, removal or discharge ;
- (b) by the Court of Wards assuming superintendence of the property of the ward ; or
- (c) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

42. When a guardian appointed or declared by the Court is discharged or under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed or dies, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

Appointment of successor to guardian dead, discharged or removed.

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CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

43. (1) The Court may, on the application of any person interested or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

Orders for regulating conduct or proceedings of guardians, and enforcement of those orders

(2) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(3) Except where it appears that the object of making an order under sub-section (1) or sub-section (2) would be defeated by the delay, the Court shall, before making the order, direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under sub-section (1), to the guardian or, in a case under sub-section (2), to the guardian who has not made the application.

(4) In case of disobedience to an order made under sub-section (1) or sub-section (2), the order may be enforced in the same manner as an injunction granted under section 492 or section 493 of the Code of Civil Procedure, in a case under sub-section (1), as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub-section (2), as if the guardian who made the application were the plaintiff and the other guardian were the defendant.

(5) Except in a case under sub-section (2), nothing in this section shall apply to a Collector who is, as such, a guardian.

44. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months.

Penalty for removal of ward from jurisdiction.

Penalty for contumacy.

45. (1) In the following cases, namely :—

(a) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub-section (1), or

(b) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (b) of section 34, a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (c) of

that section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (d) of that section, or

- (c) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (3),

the person, guardian or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(2) If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and re-committed to the civil jail.

46. (1) The Court may call upon the Collector, or upon any Court subordinate to the Court, for a report on any matter arising in any proceeding under this Act and treat the report as evidence.

Reports by Collectors and Subordinate Courts.

(2) For the purpose of preparing the report the Collector or the Judge of the subordinate Court, as the case may be, shall make such inquiry as he deems necessary, and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or produce a document which is conferred on a Court by the Code of Civil Procedure.

47. An appeal shall lie to the High Court from an order made by a District Court,—

Orders appealable.

- (a) under section 7, appointing or declaring or refusing to appoint or declare a guardian ; or
- (b) under section 9, sub-section (3), returning an application ; or
- (c) under section 25, making or refusing to make an order for the return of a ward to the custody of his guardian ; or
- (d) under section 26, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto ; or
- (e) under section 28 or section 29, refusing permission to a guardian to do an act referred to in the section ; or
- (f) under section 32, defining, restricting or extending the powers of a guardian ; or
- (g) under section 39, removing a guardian ; or
- (h) under section 40, refusing to discharge a guardian ; or

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(i) under section 43, regulating the conduct or proceedings of a guardian or settling a matter in difference between joint guardians, or enforcing the order ; or

(j) under section 44 or section 45, imposing a penalty.

48. Save as provided by the last foregoing section and by section 622 of the Code of Civil Procedure, an order made under this Act shall be final and shall not be liable to be contested by suit or otherwise.

49. The costs of any proceeding under this Act, including the costs of maintaining a guardian or other person in the civil jail, shall, subject to any rules made by the High Court under this Act, be in the discretion of the Court in which the proceeding is had.

50. (1) In addition to any other power to make rules conferred expressly or impliedly by this Act, the High Court may from time to time make rules consistent with this Act—

- (a) as to the matters respecting which, and the time at which, reports should be called for from Collectors and subordinate Courts ;
- (b) as to the allowances to be granted to, and the security to be required from, guardians, and the cases in which such allowances should be granted ;
- (c) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in sections 28 and 29 ;
- (d) as to the circumstances in which such requisitions as are mentioned in clauses (a), (b), (c) and (d) of section 34 should be made ;
- (e) as to the preservation of statements and accounts delivered and exhibited by guardians ;
- (f) as to the inspection of those statements and accounts by persons interested ;
- (g) as to the custody of money, and securities for money, belonging to wards ;
- (h) as to the securities on which money belonging to wards may be invested ;
- (i) as to the education of wards for whom guardians, not being Collectors, have been appointed or declared by the Court ; and
- (j) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(2) Rules under clauses (a) and (i) of sub-section (1) shall not have effect until they have been approved by the Local Government, nor shall any rule

under this section have effect until it has been published in the official Gazette.

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51. A guardian appointed by or holding a certificate of administration from a Civil Court under any enactment repealed by this Act shall, save as may be prescribed, be subject to the provisions of this Act, and of the rules made under it, as if he had been appointed or declared by the Court under Chapter II.

Applicability of Act to guardians already appointed by Court.

52. In section 3 of the Indian Majority Act, 1875, for the words "every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards" the following shall be substituted, namely :—

Amendment of Indian Majority Act.

"every minor of whose person or property, or both, a guardian, other than a guardian for a suit within the meaning of Chapter XXXI of the Code of Civil Procedure, has been or shall be appointed or declared by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age."

Amendment of Chapter XXXI of the Code of Civil Procedure.

53. Chapter XXXI of the Code of Civil Procedure shall be amended as follows, namely :—

A.—To section 440 of the said Code the following shall be added, namely :—

"If a minor has a guardian appointed or declared by an authority competent in this behalf, a suit shall not be instituted on behalf of the minor by any person other than such guardian except with the leave of the Court granted after notice to such guardian and after hearing any objections which he may desire to make with respect to the institution of the suit, and the Court shall not grant such leave unless it is of opinion that it is for the welfare of the minor that the person proposing to institute the suit in the name of the minor should be permitted to do so."

B.—To section 443 of the said Code the following shall be added, namely :—

"Where an authority competent in this behalf has appointed or declared a guardian or guardians of the person or property, or both, of the minor, the Court shall appoint him or one of them, as the case may be, to be the guardian for the suit under this section unless it considers, for reasons to be recorded by it, that some other person ought to be so appointed."

C.—After section 446 of the said Code the following shall be added, namely :—

"If the next friend is not a guardian appointed or declared by an authority competent in this behalf, and an application is made by a guardian

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so appointed or declared who desires to be himself appointed in the place of the next friend, the Court shall remove the next friend unless it considers, for reasons to be recorded by it, that the guardian ought not to be appointed the next friend of the minor."

D.—For section 461 of the said Code the following shall be substituted, namely :—

Receipt by next friend
or guardian *ad litem* of
property under decree for
minor.

" 461. (1) A next friend or guardian for the suit shall not, without the leave of the Court, receive any money or other moveable property on behalf of a minor, either—

(a) by way of compromise before decree or order, or

(b) under a decree or order in favour of the minor.

" (2) Where the next friend or guardian for the suit has not been appointed or declared by competent authority to be guardian of the property of the minor, or, having been so appointed or declared, is under any disability known to the Court to receive the money or other moveable property, the Court shall, if it grants him leave to receive the property, require such security and give such directions as will, in its opinion, sufficiently protect the property from waste and ensure its proper application."

E.—For section 464 of the said Code as amended by the Civil Procedure Code Amendment Act, 1888, the following shall be substituted, namely :—

" 464. Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his Princes and Chiefs and wards of Court. State or being sued, by direction of the Governor-General in Council or a Local Government, in the name of an agent or in any other name, or shall be construed to affect, or in any way derogate from, the provisions of any local law for the time being in force relating to suits by or against minors or by or against lunatics or other persons of unsound mind."

THE SCHEDULE.**ENACTMENTS REPEALED.***(See section 2.)***Act VIII
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Number and Year.	Title or Subject.	Extent of Repeal.
<i>Acts of the Governor-General in Council.</i>		
XIV of 1858	Minors (Madras)	The whole.
XL of 1858	Minors (Bengal)	So much as has not been repealed.
IX of 1861 .. .	Minors	The whole.
XX of 1864	Minors (Bombay)	The whole.
* XIV of 1869	Bombay Civil Courts Act, 1869.	So much of the last paragraph of section 16 as has not been repealed.
VII of 1870	Court-fees Act, 1870 ..	Section 1911 and article 10 of Schedule I.
† IV of 1872	Punjab Laws Act, 1872 ..	So far as it relates to Act XI. of 1858.
‡ XIX of 1873 ..	North-Western Provinces Land-revenue Act, 1873.	Section 258.
XIII of 1874	European British Minors Act, 1874.	The whole.
XV of 1874	Local Extent Act,	So far as it relates to any enactment repealed by this Act.
§ XX of 1875 ..	Central Provinces Laws Act, 1875.	So far as it relates to Act XI. of 1858.
XVIII of 1876	Oudh Laws Act, 1876 ..	So far as it relates to Act XL of 1858.
XIII of 1879	Oudh Civil Courts Act, 1879.	Clause (1) of section 25 relating to proceedings under Acts XL of 1858 and IX of 1861.
XIV of 1882 ..	Code of Civil Procedure	The second paragraph of section 443.

* Printed, Bombay Code, Vol. I, Ed. 1894, p. 127.

† See the revised edition, as modified up to 1st July 1891, published by the Legislative Department.

‡ Printed, North-Western Provinces and Oudh Code, Ed. 1892, p. 195.

§ Printed, Central Provinces Code, Ed. 1891, p. 76.

¶ Printed, North-Western Provinces and Oudh Code, Ed. 1892, pp. 313 and 353, respectively.

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THE SCHEDULE—continued.

Number and Year.	Title or Subject.	Extent of Repeal.
<i>Acts of the Governor-General in Council—contd.</i>		
* XVIII of 1884	Punjab Courts Act, 1884	.. So much of section 29 as has not been repealed.
† XVII of 1885	.. Central Provinces Government Wards Act, 1885.	Section 5.
‡ XII of 1887 ..	.. Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Clause (b) of section 23, sub-section (2).

Madras Regulations.

|| V of 1804	Court of Wards	Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards.
X of 1831	Minors' Estates	Section 3.

Regulations under the Statute 33 Victoria, Chapter 3.

¶ IX of 1874 Arakan Hill District Laws ..	So far as it relates to Acts XL of 1858 and IX of 1861.
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* See the revised edition, as modified up to 1st April 1891. published by the Legislative Department.

† Printed, Central Provinces Code, Ed. 1891, p. 270.

‡ Latest edition is printed, Assam Code, Ed. 1897, p. 189.

§ So much of this schedule as related to Act XI of 1889 was repealed by Act VI of 1900, Sch. II.

|| Printed, Madras Code, Ed. 1888, pp. 29 and 102. respectively.

¶ Printed, Burma Code, Ed. 1889, p. 353.

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INDIAN RAILWAYS.

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THE FIRST SCHEDULE—ENACTMENTS
REPEALED.THE SECOND SCHEDULE.—ARTICLES
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ACT IX OF 1890.*

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

*An Act to consolidate, amend and add to the law relating to
Railways in India.*

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Indian Railways Act, 1890.

(2) It extends to the whole of British India, inclusive† and (in so far as it has been or may be extended under the provisions of the Sindh-Pishin Railway Act, 1887),‡ of British Baluchistan, and applies also to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty without and beyond British India and those dominions; and

(3) It shall come into force on the first day of May, 1890.

§ 2. (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any

* For Statement of Objects and Reasons, see *Gazette of India*, 1888, p. 133; for the Report of the Select Committee, see *ibid.*, 1890, Part V, p. 23; and for Debates in Council, see *ibid.*, Part VI, 1888, pp. 124 and 137, and *ibid.*, 1890, Part VI, pp. 15 and 48.

Act IX of 1890 has been declared in force, by notification under the Scheduled Districts Act, 1874, in the following Scheduled Districts, namely:—Tarai Parganas, North-Western Provinces, see *Gazette of India*, 1890, Part I, p. 596; the Districts of Hazaribagh, Lohardaga (including at this time the present District of Palamau, which was separated in 1894) and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singbhum, see *ibid.*, p. 859.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898). [The Act was previously in force there p]

It has been applied to the Santhal Parganas by notification under the Santhal Parganas Settlement Regulation (III of 1872), s. 3, as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1889, p. 597, see *Calcutta Gazette*, 1890, Part I, p. 757.

† The words "of Upper Burma" were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (XIII of 1898). The word "and" also ought to have been repealed.

‡ Printed, Baluchistan Code, Ed. 1890, p. 49.

§ So much of this section and the First Schedule as relates to the Upper Burma Laws Act, 1886 (XX of 1886), has been repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule to the Act.

of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act.

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(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context.—

(1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways :

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry :

(3) "inland water" means any canal, river, lake or navigable water in British India :

(4) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway ;

(b) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway ;

(c) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway ; and

(d) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway :

* (5) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway :

(6) "railway administration" or "administration", in the case of a railway administered by the Government or a Native State, means the Manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company :

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway :

(8) "Inspector" means an Inspector of Railways appointed under this Act :

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other works connected therewith, and notwithstanding anything in any other enactment for the time being in force—

- (a) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, * [lines of railway,] ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper ;
- (b) alter the course of any rivers, brooks, streams or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or water-courses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper ;
- (c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway ;
- (d) erect and construct such houses, warehouses, offices and other buildings and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper ;
- (e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead ; and
- (f) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor-General in Council.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain :

Alteration of pipes, wires
and drains.

* These words were added by the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), s. 1.

Provided that—

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(a) when the railway administration desires to alter the position of any such pipe, wire or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority* or company having control over the pipes, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is :

(b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

† 9. (1) The Governor-General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor-General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor-General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor-General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

Payment of Compensation for damage caused by lawful exercise of powers under section 7, 8 or 9.

A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be deter-

* For definition of "Local authority," see s. 135 (5), *infra*, and the General Clauses Act, 1897 (X of 1897), s. 3 (28).

† Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 14.

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mined and paid in accordance, so far as may be *[with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation].

† 11. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely :—

(a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor-General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(b) all necessary arches, tunnels, culverts, drains, water-courses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor-General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Act, the works specified in clauses (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely :—

(a) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made ;

(b) save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the Governor-

* These words and figures were substituted for the words and figures " with the provisions of sections 11 to 15, both inclusive, and sections 18 to 42, both inclusive, of the Land Acquisition Act, 1870, and the provisions of sections 57 and 58 of that Act shall apply to the award of compensation " by the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), s. 2.

† (Y. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 68.

(Y. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 73.

General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic ;

- (c) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

* (4) The Governor-General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor-General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

† 12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorized by the Governor-General in Council.

‡ 13. The Governor-General in Council may require that, within a time to be specified in the requisition or within such further time as he may appoint in this behalf,—

- Fences, screens, gates and bars.
- (a) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith ;
- § (b) any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 70.

† Cf. *ibid.*, s. 71.

‡ Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 10.

§ Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 63.

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of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway ;

* (c) suitable gates, chains, bars, stiles or handrails be erected or renewed by a railway administration at places where a railway crosses a public road on the level ;

† (d) persons be employed by a railway administration to open and shut such gates, chains or bars.

14. (1) Where a railway administration has constructed a railway across a public road on the level, the Governor-General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor-General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

§ (2) The Governor-General in Council may require, as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor-General in Council thinks just.

Removal of trees dangerous to or obstructing the working of a railway.

|| **15.** (1) In either of the following cases, namely :—

(a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(b) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons

* Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 9.

† Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 48.

Cf. the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 7.

§ Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 46, and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 16.

|| Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 24.

interested in the tree, award to those persons such compensation as he thinks reasonable.

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Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate, or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final.

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

CHAPTER IV.

OPENING OF RAILWAYS.

* **16.** (1) A railway administration may, with the previous sanction of the Governor-General in Council, use upon a railway locomotive engines or other motive power and rolling-stock to be drawn or propelled thereby.†

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor-General in Council notice in writing of its intention.

(2) The Governor-General in Council may in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

18. A railway shall not be opened for the public carriage of passengers until the Governor-General in Council, or an Inspector empowered by the Governor-General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

Sanction of the Government a condition precedent to the opening of a railway.

Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 86.

† For notifications sanctioning the use of motive power and rolling-stock on railways in (1) Assam, see *Gazette of India*, 1883, Part I, p. 21, *ibid.*, 1885, Part I, p. 588, and *ibid.*, 1893, Part I, p. 178; (2) Bengal, see *Gazette of India*, 1879, Part I, p. 428, *ibid.*, 1880, Part I, p. 30, *ibid.*, 1883, Part I, p. 21; *ibid.*, 1884, Part I, p. 322, *ibid.*, 1885, Part I, p. 580, *ibid.*, 1888, Part I, p. 148, and others too numerous to be included in this footnote; (3) the Bombay Presidency, see *Bombay List of Local Rules and Orders*, Vol. I, Ed. 1896, pp. cxliii and cxliv; (4) Burma, see the *Burma Laws List*, Ed. 1897, p. 303; (5) Central Provinces, see *Gazette of India*, 1885, Part I, p. 683, etc.; (6) Madras, see *Madras List of Local Rules and Orders*, Vol. I, Ed. 1898, pp. 241 and 242; (7) North-Western Provinces and Oudh, see *Gazette of India*, 1879, Part I, p. 428, *ibid.*, 1884, Part I, p. 322, and *ibid.*, 1895, Part I, p. 396, etc.; (8) Punjab, see *Gazette of India*, 1879, Part I, p. 428, *ibid.*, 1884, Part I, p. 322, *ibid.*, 1885, Part I, p. 588, etc.

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19. (1) The sanction of the Governor-General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the Railway, reported in writing to the Governor-General in Council—

Procedure in sanctioning the opening of a railway.

- (a) that he has made a careful inspection of the railway and rolling-stock ;
- (b) that the moving and fixed dimensions prescribed by the Governor-General in Council have not been infringed ;
- * (c) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed by the Governor-General in Council ;
- (d) that the railway is sufficiently supplied with rolling-stock ;
- (e) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act ; and
- (f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

† (2) If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor-General in Council, and the Governor-General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor-General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor-General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor-General in Council.

* Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

† Cf. *ibid.*, s. 6.

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* **20.** (1) The provisions of sections 17, 18 and 19 with respect to the

Application of the provisions of the three last foregoing sections to material alterations of a railway.

opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection

which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

21. When an accident has occurred resulting in a temporary suspension

Exceptional provision.

of traffic, and either the original line and works have been rapidly restored to their original standard,

or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(a) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works of the diversion; and

(b) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

22. The Governor-General in Council may make rules defining the

Power to make rules with respect to the opening of railways.

cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

23. (1) When, after inspecting any open railway used for the public

Power to close an opened railway.

carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will

be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor-General in Council; and the Governor-General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so

* Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 5.

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specified be used for the public carriage of passengers on such conditions only as the Governor-General in Council may consider necessary for the safety of the public.

* (2) An order under sub-section (1) must set forth the grounds on which it is founded.

24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

Re-opening of a closed railway.

(2) When the Governor-General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor-General in Council has sanctioned its use.

(3) When the Governor-General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor-General in Council.

25. (1) The Governor-General in Council may, by general or special order, authorize the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor-General in Council might have imposed if the sanction or order had been given by himself.

Delegation of powers under this Chapter to Inspectors.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor-General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

† **26.** (1) For the purposes of this Chapter the Governor-General in Council shall, as occasion may in his opinion require, appoint a commission, styled a Railway Commission (in this Act referred to as the Commissioners), and consisting of one Law Commissioner and two Lay Commissioners.

of railway

* Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

† Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31); the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48); and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25).

(2) The Commissioners shall sit at such times and in such places as the Governor-General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882,* in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 & 25 Victoria, Chapter 104,† the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma may, on the request of the Governor-General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor-General in Council, and one at least of them shall be of experience in railway business.

Registration of jurisdiction of Railway Commission to cases specially referred.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor-General in Council.

Reference of cases to Railway Commission.

28. In any of the following circumstances, namely :—

- (a) where complaint is made to the Governor-General in Council of any thing done or any omission made by a railway administration in violation or contravention of any provision of this chapter ;
- (b) where any difference which is under the provisions of any agreement required or authorized to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor-General in Council to have it referred to the Commissioners ;
- ‡ (c) where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises, and the parties thereto apply to the Governor-General in Council to have it referred to the Commissioners ;

the Governor-General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

Constitution of Railway Commission in session.

30. (1) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by a High Court.

Power of Railway Commission.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

† The Indian High Courts Act, 1861, printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 713.

(‡) the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 9.

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(2) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise.

* (3) At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

31. (1) An appeal shall not lie from any order of the Commissioners Appeals from orders of upon any question of fact on which two of the Railway Commission. Commissioners are agreed.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(a) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(b) in any other case, to the High Court of which the Law Commissioner was a member.

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made.

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

33. (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may, from time to time, with Assessors. the general or special sanction of the Governor-General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

(2) There shall be paid to such persons such remuneration as the Governor-General in Council upon the recommendation of the Commissioners may direct.

34. The Governor-General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.†

Powers of the Governor-General in Council to make rules for the purposes of this Chapter.

* Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 50.

† For such rules, see *Gazette of India*, 1892, Part I, p. 658.

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court.

*** 36.** (1) The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person, that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1) or to the Government.

37. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

38. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor-General in Council a special report on the case, and the Governor-General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

39. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them :

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor-General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal,

* Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 3.

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re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter.

40. Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

*** 41.** Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.

Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.

proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.

Traffic Facilities.

† 42. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway administration,† shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

* Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 6.

† Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 90; the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 2; and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 25.

Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 1.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates :

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Provided as follows :—

- (a) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund ;
- (b) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment and route, and, if it has any objection, what the grounds of the objection are ;
- (c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period ;
- (d) if an objection to the rate, apportionment or route has been sent within the prescribed period, the Governor-General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision ;
- (e) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable ;
- (f) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective : in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case ;
- (g) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route,

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as well as any special charges which any railway administration is entitled to make in respect thereof ;

(h) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route ;

* (i) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly ;

(j) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor-General in Council may by general or special order prescribe.

† 43. (1) Whenever it is shown that a railway administration charges

Undue preference in case of unequal rates for like traffic or services. one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

44. Where a railway administration is a party to an agreement for

Provision for facilities and equal treatment where ships or boats are used which are not part of a railway. procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway.

* (Y. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 12.

† (Y. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 27.

(Y. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 25.

Terminals.

45. A railway administration may charge reasonable terminals.

*** 46.** (1) The Governor-General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

Power of Railway Commission to fix terminals.

† (2) In deciding the question or dispute the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

‡ 47. (1) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the Governor-General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely :—

General rules.

- (a) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled ;
- (b) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage ;
- (c) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods ;
- (d) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers ;
- (e) for regulating the conduct of the railway servants ;
- (f) for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner ; and

* Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 15.

† Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 24 (1).

‡ Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), ss. 7, 8 and 9 ; and the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 108,

§ For rules for the guidance of railway officials employed on lines administered by the Government, see *Gazette of India*, 1895, Part I, p. 173.

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* (g) generally, for regulating the travelling upon, and the use, working and management of, the railway.†

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees,‡ and that, in the case of a rule made under clause (e) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor-General in Council and been published in the Gazette of India :

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(4) The Governor-General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with the previous sanction of the Governor-General in Council, rescind or vary any such rule.§

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879,|| and appearing from the Gazette of India to be intended to apply to the Railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

Disposal of differences between railways regarding conduct of joint traffic.	Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are
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* For general rules made by the Director-General of Railways for all open lines of railway in British India administered by the Government, see *Gazette of India*, 1892, Part I, p. 239.

† Cf. the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 32.

‡ Cf. the Canadian Railway Act, 1886 (49 Vict., c. 109), s. 86.

§ For amendments : (1) in the general rules for all open lines of railway administered by the Governments, see *Gazette of India*, 1893, Part I, pp. 34, 36, 126, 359 and 528 ; (2) in the rules for the guidance of railway officials, see *Gazette of India*, 1896, Part I, pp. 422, 501, 516, 577 and 816 ; *ibid.*, 1897, Part I, p. 167, and *ibid.*, 1898, Part I, pp. 38 and 361.

|| Act IV of 1879 is repealed by s. 2 of this Act.

¶ Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 11, and the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 9.

not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor-General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

* 49. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41,† provides, may from time to time make and carry into effect agreements with the Governor-General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

‡ 50. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41,† provides, may from time to time make with the Governor-General in Council, and carry into effect, or, with the sanction of the Governor-General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely:—

- (a) the working, use, management and maintenance of any railway ;
- (b) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of the railway ;
- (c) the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance ;
- (d) the interchange, accommodation and conveyance of traffic being on, coming from or intended for the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic ;
- (e) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on :

* Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), s. 4 (d).

† The Indian Guaranteed Railways Act, 1879, printed, Collection of Statutes relating to India, Vol. II, p. 1154.

‡ Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), s. 2; the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 87; the Railway (Sales and Leases) Act, 1845 (8 & 9 Vict., c. 96); and the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92),

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Provided that the agreement shall not affect any of the rates which the railway administrations parties thereto are, from time to time, respectively authorized to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

***51.** Any railway company, not being a company for which the
Establishment of ferries and roadways for accommo- Statute 42 and 43 Victoria, chapter 41,† provides, dation of traffic. may from time to time exercise with the sanction of the Governor-General in Council all or any of the following powers, namely :—

- (a) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry ;
- (b) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section ;
- (c) it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic ;
- (d) it may construct and maintain roads for the accommodation of traffic passing to or from its railway ;
- (e) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway ;
- (f) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor-General in Council.

†52. Every railway administration shall, in forms to be prescribed by the Governor-General in Council, prepare, half-
Returns. yearly or at such intervals as the Governor-General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor-General in Council may require, and shall forward a copy of such returns to the Governor-General in Council at such times as he may direct.

* Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), s. 4.

† The Indian Guaranteed Railways Act, 1879, printed, Collection of Statutes relating to India, Vol. II, p. 1154.

‡ Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), s. 3 ; the regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), ss. 3 and 4 ; and the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), ss. 9 and 10.

Carriage of Property.

*** 53.** (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor-General in Council for the class of axle under the wagon or truck.

54. (1) Subject to the control of the Governor-General in Council, a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.

† 55. (1) If a person fails to pay on demand made by or on behalf of a railway administration any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Governor-General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

* Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

† Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 97.

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(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

56. (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him, requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

57. Where any animals, goods or sale-proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods or sale-proceeds.

58. (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner

or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (a) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

* (4) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

59. (1) No person shall be entitled to take with him, or to require a Dangerous or offensive railway administration to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without dis-

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 101.

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tinently marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in * [sub-section (2)] having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or police-officer or a person enrolled as a volunteer under the Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such.

60. At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the rate is authorized by the administration or administrations concerned.

Exhibition to the public of authority for quoted rates.

61. (1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely :—

Requisitions on railway administrations for details of gross charges.

- (a) the carriage of the goods on the railway ;
- (b) terminals ;
- (c) demurrage ; and

* The words and figure "sub-section (2)" were substituted for the words and figure "sub-section (1)" by the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), s. 3.

† Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 14, and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 33.

Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 17.

(d) collection, delivery and other expenses ;

but without particularizing the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

Carriage of Passengers.

† 62. The Governor-General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor-General in Council has approved.

63. Every railway administration shall fix, subject to the approval of the Governor-General in Council, the maximum number of passengers for each compartment. Each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor-General in Council, after consultation with the railway administration, may determine.

64. (1) On and after the first day of January, 1891, every railway administration shall, in every train carrying passengers, reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.

65. Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time being in force on the railway, lists of and the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

* Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 14.

† Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

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66. (1) Every person desirous of travelling on a railway shall, upon

Supply of tickets on payment of fares.

payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has

been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

(a) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(b) if the class of carriage to be so specified is any other than the lowest class, then in English.

Provision for case in which tickets have been issued for trains not having room available for additional passengers.

67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

(2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within three hours after the departure of the train be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

68. No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in his behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

70. A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

71. (1) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (d), a person suffering from any infectious or contagious disorder.

Power to refuse to carry persons suffering from infectious or contagious disorder.

Return and season tickets.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

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(3) A railway servant giving such permission as is mentioned in subsection (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

72. (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

Measure of the general responsibility of a railway administration as a carrier of animals and goods.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

- (a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and
- (b) is otherwise in a form approved by the Governor-General in Council.*

(3) Nothing in the common law of England or in the Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

† **73.** (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of [mules,] ‡ camels or horned cattle, fifty rupees a head or, in the case of [donkeys,] ‡ sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared, or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

Further provision with respect to the liability of a railway administration as a carrier of animals.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

* For risk note forms prescribed under this clause, see *Gazette of India*, Part I, p. 282.

† (*f.* the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 7.

‡ The words "mules" and "donkeys" were added by the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), s. 4.

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(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

*** 75. (1)** When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorized in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Burden of proof in suits in respect of loss of animals or goods.

77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred

Notification of claims to refunds of overcharges and to compensation for losses.

* Cf. the Carriers Act, 1830 (11 Geo. IV. and 1 Will. IV., c. 68), s. 1.

In writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

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78. Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (r) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

79. Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that, if he were not an officer, soldier or follower being or travelling as such on duty upon the railway, compensation would be payable under Act No. XIII of 1855 * or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

80. Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to a passenger, or for loss, destruction or deterioration of animals or goods where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred.

81. [*Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.*] Rep. by the Indian Railways Act, 1896 (IX of 1896), section 5.

* The Indian Fatal Accidents Act, 1855 (XIII of 1855).

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*** 82.** (1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854.† and the Merchant Shipping Act Amendment Act, 1862,‡ if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

Report of railway accidents.

‡ 83. When any of the following accidents occurs in the course of working a railway, namely:—

(a) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code or with serious injury to property ;

(b) any collision between trains of which one is a train² carrying passengers ;

(c) the derailment of any train carrying passengers or of any part of such a train ;

(d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property ;

(e) any accident of any other description which the Governor-General in Council may notify in this behalf in the Gazette of India ;

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other

* Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 14, and the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 12.

† See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

‡ Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 6,

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railway administration also shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor-General in Council appoints in this behalf.

84. The Governor-General in Council may make rules,* consistent with this Act and any other enactment for the time being in force for all or any of the following purposes, namely :—

Power to make rules re. with this Act and any other enactment for the time
garding notices of, and en. being in force for all or any of the following
quiries into, accidents. purposes, namely :—

- (a) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain ;
- (b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred ;
- (c) for prescribing the duties of railway servants, police officers, Inspectors and Magistrates on the occurrence of an accident.

85. Every railway administration shall send to the Governor-General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor-General in Council directs.†

Submission of return of accidents.

‡ **86.** Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

Provision for compulsory medical examination of person injured in railway accident.

* For rules under the section as to notices of accidents occurring in the course of working a railway, see *Gazette of India*, 1895, Part I, pp. 366 and 948.

† For rules as to returns of accidents to be submitted by railway administrations to Government, see *Gazette of India*, 1895, Part I, p. 366 ; and *ibid.*, 1898, Part I, p. 737.

Cf. the Regulation of Railways Act, 1868, (31 & 32 Vict., c. 119), s. 26.

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98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.

Offences by Railway Servants.

* **99.** If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

Breach of duty imposed by section 60.

100. If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.

Drunkenness.

Endangering the safety of persons.

† **101.** If a railway servant, when on duty, endangers the safety of any person—

(a) by disobeying any general rule made, sanctioned, published and notified under this Act, or

(b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(c) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

102. If a railway servant compels or attempts to compel, or causes any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63 he shall be punished with fine which may extend to twenty rupees.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

Omission to give notice of accident.

Act, 1842 (5 and 6 Vict., c. 55), s. 17.

† (cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), ss. 13 and 14, and the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 17.

Obstructing level-crossings.

* 104. If a railway servant unnecessarily—

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(a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(b) keeps a level-crossing closed against the public,

he shall be punished with fine which may extend to twenty rupees.

† 105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

False returns.

Other Offences.

‡ 106. If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also, shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Giving false account of

§ 107. If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

Unlawfully bringing dangerous or offensive goods upon a railway.

108. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

Needlessly interfering with means of communication in a train.

109. (1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it

re-re-

sisting entry into a compartment not full.

* Cf. the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 5.

† Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 10.

Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 99.

Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 152.

Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

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when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

110. (1) If a person, without the consent of his fellow-passengers, if
Smoking. any, in the same compartment smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

* **111.** If a person, without authority in this behalf, pulls down or wil-
Defacing public notices. fully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

Fraudulently travelling or attempting to travel without proper pass or ticket.

† **112.** If a person, with intent to defraud a railway administration,—

(a) enters in contravention of section 68 any carriage on a railway, or

(b) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have travelled.

‡ **113.** (1) If a passenger travels in a train without having a proper pass
Travelling without pass or ticket or with insufficient pass or ticket or beyond authorized distance. or a proper ticket with him, or being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single

* Cf. the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 146.

† Cf. English Bye-law No. 2.

Cf. the French and German Railway Law,

fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The excess charge referred to in sub-section (1) and sub-section (2) shall,—

(a) where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas, and

(b) in any other case, be six rupees, one rupee or three rupees, according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind :

Provided that such excess charge shall in no case exceed,—

(a) where the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or

(b) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine *imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

* As to procedure for recovery of fines, see ss. 386 to 389 of the Code of Criminal Procedure, 1898 (Act V of 1898).

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***114.** If a person sells or attempts to sell, or parts or attempts to part with the possession of, †[any half] of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for ‡[the journey] authorized by the ticket.

115. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

§116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

|| 117. (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

(2) If any such railway servant as is referred to in section 71, sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees.

¶ 118. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or

* Cf. English Bye-law No. 5.

The words "any half" were substituted for the words "the return half" by s. 6 of the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896).

† The words "the journey" were substituted for the words "the return journey" by s. 6 of the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896).

§ Cf. English Bye-law No. 4.

|| Cf. English Bye-law No. 16.

Cf. English Bye-law No. 11.

leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

119. If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid, and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Drunkenness or nuisance
on a railway.

120. If a person in any railway carriage or upon any part of a railway—

- (a) is in a state of intoxication, or
- (b) commits any nuisance or act of indecency, or uses obscene or abusive language, or
- (c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

*** 121.** If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

Obstructing railway servant in his duty.

*** 122.** (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

Trespass and refusal to desist from trespass.

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

Act IX of 1890. **123.** If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees.

Opening or not properly shutting gates.

*** 124** In either of the following cases, namely :—

(a) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes or attempts to drive or take, any animal, vehicle or other thing across the railway,

(b) if, in the absence of a gate-keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

125. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recorded or may be recoverable under the Cattle-trespass Act, 1871.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression " public road " in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word " cattle " has the same meaning in this section as in the Cattle-trespass Act, 1871.

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 75

Maliciously wrecking or attempting to wreck a train.

* **126.** If a person unlawfully—

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing, or
- (b) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or
- (c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or
- (d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or
- (e) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

† **127.** If a person unlawfully throws or causes to fall or strike at,

Maliciously hurting or attempting to hurt persons travelling by railway.

against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

‡ **128.** If a person, by any unlawful act or by any wilful omission or

Endangering safety of persons travelling by railway by wilful act or omissions

neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

129. If a person rashly or negligently does any act, or omits to do

Endangering safety of persons travelling by railway by rash or negligent act or omission.

what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

* Cf. the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 35, and the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 32.

† Cf. Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 33.

‡ Cf. the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 34, and the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 36.

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130. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.*

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

Procedure.

131. (1) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128 or 129 or in section 130, sub-section (1), he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or commit him for trial.

† **132.** (1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

ss. 386 to 389 of the Code of Criminal Procedure, 1898 (Act V of 1898).

† Cf. the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 156

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

The provisions of Chapters XXXI and XLII of the Code of Criminal Procedure, 1882,* shall, so far as may be, apply to bail given and bonds executed under this section.

133. No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Magistrates having jurisdiction under Act.

134. (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

135. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

Taxation of railways by local authorities.

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority † unless the Governor-General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax. ‡

(2) While a notification of the Governor-General in Council under clause (1) of this section is in force, the railway administration shall be liable

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

† For definition of "local authority," see sub-s. (5) *infra* and the General Clauses Act, 1897 (X of 1897), s. 3 (28).

‡ (1) For notification under this section declaring every railway administration to be liable to pay every tax which it is lawfully required to pay by or on behalf of any local authority in aid of the funds of such authority, see *Gazette of India*, 1890, Part. I, p. 438; (2) for continuation notification declaring such administrations liable to pay certain taxes in aid of the funds of every local authority in respect of certain matters, see *Gazette of India*, 1893, Part. I, p. 190; (3) for notification imposing water-rates on the East Indian Railway in respect of certain Municipalities, see *Gazette of India*, 1893 and 1894, Part I, pp. 358 and 438, respectively.

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to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor-General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor-General in Council may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887,* and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

† 136. (1) None of the rolling-stock, machinery, plant, tools, fittings, material or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court ‡ [or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution], without the previous sanction of the Governor-General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

Railway servants to be public servants for the purposes of Chapter IX of the Indian Penal Code.

137. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

(2) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or in contravention of any direction of the railway administration in this behalf, engage in trade.

* See now the General Clauses Act, 1897 (X of 1897), s. 3 (28).

† Cf. the Railway Companies Act, 1867 (30 & 31 Vict., c. 127), s. 4.

‡ These words were added by the Indian Railways Act (1890) Amendment Act, 1896 (12 of 1896), s. 7.

(4) Notwithstanding anything in section 21 of the Indian Penal Code a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub section (1).

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* 138. If a railway servant is discharged or suspended from his office

Procedure for summary
delivery to railway adminis-
tration of property detained
by a railway servant.

or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

† 139. Any notice, determination, direction, requisition, appointment,

Mode of signifying com-
munications from the Gov-
ernor-General in Council.

expression of opinion, approval or sanction to be given or signified on the part of the Governor-General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant authorized to act on behalf of the Governor-General in Council in respect of the matters to which the same may relate, and the Governor-General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

140. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(a) by delivering the notice or other document to the Manager or Agent, or

by leaving it at his office, or

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 106.

† Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 53.

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(c) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the Indian Post Office Act, 1866. *

† **141.** Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—
Service of notices by railway administrations.

- (a) by delivering it to the person, or
- (b) by leaving it at the usual or last known place of abode of the person, or
- (c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the Indian Post Office Act, 1866.*

142. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.
Presumption where notice is served by post.

143. (1) A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, subsection (4), shall not take effect until it has been published in the Gazette of India.
Provisions with respect to rules.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor-General in Council, by general or special order, directs.

(3) The Governor-General in Council may cancel or vary any rule made by him under this Act.

144. (1) The Governor-General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor-General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of
Delegation of powers of Governor-General in Council.

* See now the Indian Post Office Act, 1898 (VI of 1898).

† the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 136; and the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 34.

the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.*

(2) The provisions of section 139 with respect to proceedings of the Governor-General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor-General in Council in pursuance of a notification under sub-section (1).

145. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorise any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

Representation of Managers and agents of Railways in Courts.

(2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1882,† be entitled to conduct such prosecutions without the permission of the Magistrate.

146. The Governor-General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.‡

Power to extend Act to steam-tramways.

147. The Governor-General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.§

Power to exempt railways from Act.

148. (1) For the purposes of section 3, clauses (5), (6) and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, 144, 145 and 147, the word "railway", whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (4).

Matters supplemental to the definitions of "railways" and "railway servant."

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, sub-sections (1), (2) and (4), and section 138, the expression

* For notification delegating certain powers and functions vested in the Governor-General in Council to Local Governments, see *Gazette of India*, 1890, Pt. I, p. 438.

† See now the Code of Criminal Procedure, 1898 (Act V of 1898).

‡ For notifications extending the Act to certain steam-tramways, see *Gazette of India*, 1898, Pt. I, pp. 408 and 481.

§ For notification exempting the Barsi Light Railway Company from the provision of s. 85 of this Act, see *Gazette of India*, 1896, Pt. I, p. 303.

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“ railway servant ” includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

149. In sections 194 and 195 of the Indian Penal Code, for the words “ by this Code or the law of England ” the words “ by the law of British India or England ” shall be substituted.

Amendment of the Indian Penal Code.

150. For that portion of the preamble to the Sindh-Pishin Railway Act, 1887,* which begins with the words “ so far as it applies ” and ends with the words “ in its entirety,” the words “ should apply in its entirety ” to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh ” shall be substituted.

Amendment of the Sindh-Pishin Railway Act, 1887.

* Printed Baluchistan Code, Ed. 1890, p. 49.

RAILWAYS.

THE FIRST SCHEDULE.

[ENACTMENTS REPEALED.]

(See section 2.)

**Act XX
of
1890.**

Number and Year.	Title.	Extent of Repeal.
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Acts of the Governor-General in Council.

III of 1865	Carriers Act, 1865	Section 7 (so far as it relates to railways) and section 10.
IV of 1879	Indian Railway Act, 1879	The whole.
IV of 1883	Indian Railway Act, 1883	The whole.
XI of 1886	Indian Tramways Act, 1886	Section 49.
*

Act of the Lieutenant-Governor of Bengal in Council.

† I of 1882	Bengal Embankment Act, 1882 ..	Section 16, and in section 17 the proviso to the first paragraph of that section, the words "or under the section last preceding" and the words "or railroad" wherever they occur.
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* The portion omitted, relates to the Upper Burma Laws Act, 1890 (XX of 1890), now repealed by the Burma Laws Act, 1908 (XIII of 1908), see the Fifth Schedule to the Act.

† Printed, Bengal Code, Vol. II, Ed. 1890, p. 609.

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1890.**

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(See section 75.)

- (a) gold and silver, coined or uncoined, manufactured or unmanufactured,
- (b) plated articles ;
- (c) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform ;
- (d) pearls, precious stones, jewellery and trinkets ;
- (e) watches, clocks and timepieces of any description ;
- (f) Government securities ;
- (g) Government stamps ;
- (h) bills of exchange, hundis, promissory-notes, bank-notes and orders or other securities for payment of money ;
- (i) maps, writings and title-deeds ;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art ;
- (k) art pottery and all articles made of glass, China or marble ;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) shawls ;
- (n) lace and furs ;
- (o) opium ;
- (p) ivory, ebony, coral and sandalwood ;
- (q) musk, sandalwood oil and other essential oils used in the preparation of *itr* or other perfume ;
- (r) musical and scientific instruments ;
- (s) any article of special value which the Governor-General in Council may, by notification in the Gazette of India, add to this schedule. *

* For articles added to this schedule by notification, see *Gazette of India*, 1894 and 1896, Part I, pp. 370 and 914, respectively.

ACT X OF 1890.*

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act to amend Act XXV of 1867.

WHEREAS it is expedient to amend Act XXV of 1867 (*an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*); It is hereby enacted as follows:—

1. [*Repeal of part of preamble to Act XXV of 1867.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

2. [*Repeal of part of section 1, Act XXV, 1867.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

3. In section 6 of the said Act, for the words “other Court within the local limits of whose ordinary original civil jurisdiction” the words “other principal Civil Court of original jurisdiction for the place where” shall be substituted.

Amendment of section 6, Act XXV, 1867.

Substitution of new Part for Part III, Act XXV, 1867.

4. For Part III (sections 9, 10 and 11) of the said Act the following shall be substituted, namely:—

“PART III.

“DELIVERY OF BOOKS.

“9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place, and to such officer as the Local Govern-
Copies of books printed after commencement of Act to be delivered gratis to Government.”

* Short title, “The Press and Registration of Books Act (1867) Amendment Act, 1890,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part V, p. 236; for Report of the Select Committee, see *ibid.*, 1890, Part V, p. 91; and for Proceedings in Council, see *ibid.*, 1889, Part VI, p. 197; and *ibid.*, 1890, Part VI, pp. 1 and 58.

This Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see *Calcutta Gazette*, 1892, Part I, p. 448.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, XXV of 1867, declared in force there by the Burma Laws Act, 1898 (XIII of 1898).

It had been previously extended there under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1892, Part, I p. 94.

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ment shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say :—

(a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,

(b) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies, as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

“The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

“Nothing in the former part of this section shall apply to—

(i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or

(ii) any periodical work published in conformity with the rules laid down in section 5 of this Act.

Receipt for copies delivered under last foregoing section.

“10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

“11. The copy delivered pursuant to clause (a) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine.

Disposal of copies delivered under section 9.

“Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be.”

Substitution of new sec-
17.

5. For sections 16 and 17 of the said Act the following shall be substituted, namely :—

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“ 16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorized by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

“ If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

“ 17. Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum, or of his successor in office, in the manner authorized by the Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine.

“ All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct.”

6. In section 18 of the said Act, there shall be substituted for the words and figure “ pursuant to section 9 ” the words, letter and figure “ pursuant to clause (a) of the first paragraph of section 9 ”, and for the words “ copies thereof in manner aforesaid ” the words, letter and figure “ copy thereof pursuant to clause (a) of the first paragraph of section 9 ”.

7. [*Repeal of section 22, Act XXV, 1867.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Act XI
of
1890.

ACT XI OF 1890.*

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals; It is hereby enacted as follows :—

Title, extent and commencement, and supersession of other enactments.

1. (1) This Act may be called the Prevention of Cruelty to Animals Act, 1890.

(2) This section extends to the whole of British India : and the Local Government may, by notification in the official Gazette, extend, on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit.†

(3) When any part of this Act has been extended under sub-section (2) to a local area, the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly until the Local Government, by a like notification, otherwise directs.

(4) The Local Government may cancel or vary a notification under sub-section (2) or sub-section (3).

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “animal” means any domestic or captured animal : and

(2) “street” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

* For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 4 ; for Report of the Select Committee, see *ibid.*, p. 95 ; and for Proceedings in Council, see *ibid.*, Part VI, pp. 4, 10 and 62.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898). [It had previously been extended there under Act XIV of 1874, see *Gazette of India*, 1898, Part I, p. 94].

The Act has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see *Gazette of India*, 1892, Part II, p. 367.

It has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see *Calcutta Gazette*, 1892, Part I, p. 448.

† As to extension of the rest of the Act to places in (1) Assam, see *Assam Gazette*, 1897, Part II, pp. 169 and 170 ; (2) Ajmere-Merwara, see *Gazette of India*, 1897, Part II, p. 771 ; (3) the Bombay Presidency, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. 544 and 545 ; (4) Burma, see Burma Laws List, Ed. 1897, p. 308 ; (5) Central Provinces, see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 58 ; (6) North-Western Provinces and Oudh, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 149 and 150, and *North-Western Pro- and Oudh Gazette*, 1897, Part I, p. 1194.

Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty.

3. If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place,—

* (a) cruelly and unnecessarily beats, overdrives, overloads or otherwise ill-treats any animal, or

† (b) binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(c) offers, exposes or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

‡ he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

4. If any person performs upon any cow the operation called phuká, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty for practising phuka.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for killing animals with unnecessary cruelty anywhere.

6. (1) If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

Penalty for employing anywhere animals unfit for labour.

(2) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed.

* Cf. Canadian 43 Vict., c. 38, s. 2.

† Cf. *ibid* and the Cruelty to Animals Act, 1849 (12 & 13 Vict., c. 92), s. 12.

Cf. the Cruelty to Animals Act, 1849 (12 & 13 Vict., c. 92), s. 18.

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(4) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency town, the Commissioner of Police may from time to time prescribe.

(5) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(6) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

7. If any person wilfully permits any animal of which he is the owner to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine which may extend to one hundred rupees.

Penalty for permitting diseased animals to go at large or to die in public places.

8. (1) If a Magistrate of the first class, Sub-divisional Magistrate, Commissioner of Police or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4, section 5 or section 6 is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorize any police-officer above the rank of a constable to enter and search the place.

Search-warrants.

(2) The provisions of the Code of Criminal Procedure, 1882,* relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub-section (1).

9. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Limitation for prosecutions.

10. When any Magistrate, Commissioner of Police or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if in his opinion its sufferings are such as to render such a direction proper.

Destruction of suffering animals.

11. Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.

Saving with respect to religious rites and usages.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

12. Notwithstanding anything in section 1, sections 9, 10 and 11 shall extend to every local area in which any section of this Act constituting an offence is for the time being in force.

Provision supplementary to section 1 with respect to extent of Act.

Act XII of 1890.

ACT XIII OF 1890.*

RECEIVED THE G.-G.'S ASSENT ON THE 28TH MARCH 1890.

An Act to amend the Excise Act, 1881,† and the Bengal Excise Act, 1878, and to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting Spirit.

WHEREAS it is expedient to amend the Excise Act, 1881,† and the Bengal Excise Act, 1878,‡ and to apply to malt liquor certain provisions of the Sea Customs Act, 1878, respecting spirit; It is hereby enacted as follows :—

Title and commencement. **1.** (1) This Act may be called the Excise (Malt Liquors) Act, 1890; and

(2) It shall come into force at once.

2—5. [*Amendment of the Excise Act, 1881 (XII of 1881).*] Rep. by the Excise Act, 1896 (XII of 1896).

6—7. [*Amendment of the Bengal Excise Act, 1878.*] ‡ Not reproduced as they affect the Bengal Code.

8. [*Saving of legislative authority of Bengal Council.*] Not reproduced as it affects the Bengal Code.

Drawback of Excise-duty on Export of Malt Liquor.

9. The provisions of section 150 of the Sea Customs Act, 1878, with respect to the allowance of a drawback of excise-duty paid on spirit manufactured in British India and exported to a foreign port, and with respect to the regulation of the drawback by the quantity of such spirit, shall apply also, so far as they can be made applicable, to fermented liquor made in British India from malt and so exported and to the drawback of the excise-duty paid on such liquor.

Application of provisions of section 150, Act VIII, 1878, to malt liquor.

* For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 72; for Debates in Council, see *ibid.*, Part VI, pp. 31, 68 and 75. The Act has been declared in force in the Angul District by the Angul District Regulation, 1894 (1 of 1894). S. 9 of the Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

† So much of this Act as amends the Excise Act, 1881 (XXII of 1881), has been repealed by the Excise Act, 1896 (XII of 1896).

‡ Printed, Bengal Code, Vol. II, Ed. 1890, p.

Act XVI
of
1890.

ACT XVI §9

RECEIVED THE G.-G.'S ASSENT ON THE 11TH SEPTEMBER 1890.

An Act to amend the Births, Deaths and Marriages Registration Act, 1886.

WHEREAS it is expedient to amend the Births, Deaths and Marriages Registration Act, 1886; It is hereby enacted as follows:—

1. In section 32 of the said Act, for the words “within one year from the date on which this Act comes into force,” the words “at any time before the first day of April, 1891,” shall be substituted.

Addition to new section
35A, Act VI, 1886.

2. The following section shall be added to Chapter V of the said Act, namely:—

“35A. [*Printed, supra, p. 64*]

* Short title, “The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 127; for Proceedings in Council, see *ibid.*, Part VI, pp. 126 and 129.

As being a part of the original Act VI of 1886, it is in force in Upper Burma (except the Shan States), see Burma Laws Act, 1898 (XIII of 1898).

This Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation, (III of 1872), as amended by the Santhal Parganas Laws Regulation 1886 (III of 1886) printed, Bengal Code, Ed. 1889, p. 597, see *Calcutta Gazette*, 1891, Part I, p. 123.

ACT XVIII OF 1890.*

Act XVIII
of
1890.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH OCTOBER 1890.

An Act to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to amend the Indian Emigration Act, 1883, in manner hereinafter appearing ; It is hereby enacted as follows :—

Correction of section 31,
Act XXI, 1883.

1. In section 31 of the said Act, after the word "mistake" the word "and" shall be inserted.

Amendment of, and addition to, section 35, Act XXI, 1883.

2. (1) In section 35, sub-section (1), of the said Act, the words "in duplicate" shall be substituted for the words "in triplicate" in both places where the latter words occur.

(2) To the same section the following sub-section shall be added, namely :—

"(4) Any number of intending emigrants appearing with the same recruiter before the Registering Officer or Protector at the same time, and desiring to emigrate on the same terms to the same country, may, with the permission of the Registering Officer or Protector (as the case may be), execute one instrument of agreement under this section, instead of each of such intending emigrants executing a separate instrument."

Substitution of new section for section 37, Act XXI, 1883.

3. For section 37 of the said Act the following shall be substituted, namely :—

Record of registrations and agreements.

"37. When the agreement has been executed and attested—

(a) one of the copies thereof shall be delivered to the emigrant, and the other shall be retained by the Protector or sent by the Registering Officer to him, and

(b) a certified copy of the particulars registered under section 31 concerning the emigrant or emigrants by whom the agreement was executed, and concerning his or their dependents (if any), shall be delivered to the recruiter for transmission to the Emigration Agent."

4. There shall be substituted in sub-section (1) of section 49 of the said Act, for the word "agreement" the words and figures "particulars registered under section 31," and in sub-section (2) of the same section for the word "agreement" the words "said copy."

Amendment of section 49, Act XXI, 1883.

* Short title, "The Indian Emigration Act (1883) Amendment Act, 1890," see the Indian Short Titles Act, 1897, (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 124 ; for Report of the Select Committee, see *ibid.*, p. 133, and for Proceedings in Council, see *ibid.*, Part VI, pp. 122, 126, 131 and 136.

This Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the, Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1889, p. 597, see *Calcutta Gazette*, 1892, Part I, p. 448.

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Addition of proviso to section 56 (1), Act XXI, 1883.

5. To sub-section (1) of section 56 of the said Act the following proviso shall be added, namely :—

“ Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steam-ships Act, 1884, and in force and applicable to her intended voyage, the survey under this sub-section with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient.”

6. [*Repeal of section 70, Act XXI, 1883.*] *Rep. by the Repealing and Amending Act, 1891 [XII of 1891].*

Substitution of new section for section 102, Act XXI, 1883

7. For section 102 of the said Act as amended by Act XXI of 1884,* the following shall be substituted, namely :—

“ 102. (1) On and from such a date as the Governor-General in Council may, by notification in the Gazette of India, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements, or with respect to any † [country] for labour in which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India who departs by sea out of British India under an agreement to labour for hire in any such State † [or country] shall not, so long as the notification continues to apply to the State ‡ [or country] be deemed to emigrate within the meaning of this Act.

(2) The Governor-General in Council may, by notification in the Gazette of India, declare that from a date to be specified a notification under sub-section (1) shall no longer apply to a Native State or † [country] therein mentioned.”

8. Every notification made under section 102 of the said Act as amended by Act XXI of 1884* shall be deemed to have been made under sub-section (1) of section 102 of the said Act as amended by the last foregoing section of this Act.

Saving of notifications under section 102, Act XXI 1883, as amended by Act XXI. 1884.

* The Straits Settlements Emigration Act, 1884, the Act was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

† The word “country” was substituted for the words “British Colony or possession” by the Indian Emigration Act Amendment Act, 1897 (VII of 1897).

‡ The word “country” was substituted for the words “State, colony, or possession” by the Indian Emigration Act Amendment Act 1897, (VII of 1897.)

9. In section 105 of the said Act, for the word and figures "section 102" the words, figures and letter "section 103, clause (a), and section 104" shall be substituted.

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1890.**

Amendment of section
105, Act XXI, 1883.

ACT XIX OF 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH OCTOBER 1890.

An Act to amend the Indian Salt Act, 1882.

WHEREAS it is expedient to amend the Indian Salt Act, 1882, for the purpose of regulating the traffic in Kohat salt in the Punjab; It is hereby enacted as follows:—

Addition to section 3,
Act XII, 1882.

1. To section 3 of the Indian Salt Act, 1882, the following shall be added, namely:—

Kohat salt.

" 'Kohat salt' means salt produced in the district of Kohat in the Punjab."

Act XII, 1882. following shall be inserted, namely:—

" CHAPTER IIIA.

" INDUS PREVENTIVE LINE.

Power to define zones
and establish chains of
posts.

" 8A. (1) The Governor-General in Council may, from time to time, by rule,—

(a) define a zone of country not exceeding fifteen miles in breadth—

(i) along any portion of the river Indus and at such distance there-
• from as he deems expedient, or

(ii) in any tract extending from that river to the western frontier of the Punjab,

(b) extend any such zone so as to include any ferry, or any portion of a railway, canal or navigable river entering the zone, or any place where goods are loaded or unloaded into wagons or boats for the purpose of entering or leaving the zone, and

(c) within such a zone establish a chain of posts extending along the zone.

* Short title, "The Indian Salt Act (1882) Amendment Act, 1890." See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1890, p. 126; for Report of the Select Committee, see *ibid.*, p. 145; and for Proceedings in Council, see *ibid.*, Part VI, pp. 124, 127 and 137. As being part of the original Act, XII of 1882, this Act is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898).

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of
1890.**

“(2) The establishment of a chain of posts under clause (c) of sub-section (1) shall be deemed to be a public purpose within the meaning of the Land Acquisition Act, 1870.*

Effect of defining a zone and establishing a chain of posts.

“8B. When a zone has been defined and a chain of posts established under section 8A, the Governor-General in Council may, from time to time, by rule—

- (a) prohibit any person, except upon such conditions as may be prescribed in the rule, from having in his possession any Kohat salt within the limits of the zone, and
- (b) so far as may be necessary for the prevention of the smuggling of Kohat salt across the chain of posts, control and regulate the passage of traffic across such chain, and provide for the searching of all persons and things crossing or being taken across such chain.”

Addition to section 25, Act XII, 1882.

3. The following shall be added to section 25 of the said Act, namely:—

“A salt-revenue-officer shall not be deemed to search or detain any person, or to seize the moveable property of any person vexatiously and unnecessarily within the meaning of clause (b) or clause (c) of the first paragraph of this section if the search is authorized by any rule under clause (b) of section 8B and the detention or seizure is such as is necessary for the purposes of such search.”

Addition to section 27, Act XII, 1882.

4. To section 27 of the said Act the following shall be added, namely—

“Nothing in this section shall be deemed to affect Chapter IIIA of this Act or any rule under that Chapter.”

5. [*Repeal of section 31 of Act XII of 1882.*] *This section and the preamble to it rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

* See now the Land Acquisition Act, 1894 (I of 1894).

ACT I OF 1891 *

Act I
of
1891.

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JANUARY 1891.

Act to amend the Cattle-trespass Act, 1871, and incorporate therein Act XVIII of 1883. †

WHEREAS it is expedient to amend the Cattle-trespass Act, 1871, and incorporate therein Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*); It is hereby enacted as follows :—

1. For section 1 of the Cattle-trespass Act, 1871, the following shall be substituted, namely :—

Substitution of new section for section 1, Act I, 1871.

“ **1.** (1) This Act may be called the Cattle-trespass Act, 1871; and

“ (2) It extends to the whole of British India except the Presidency-towns and such local areas as the Local Government, by notification in the official Gazette, may from time to time exclude from its operation.

Title and extent.

“ (3) The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under sub-section (2).”

Additions to section 3, Act I, 1871.

2. To section 3 of the said Act the following shall be added, namely :—

“ and

“ ‘ Local authority ’ means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

“ ‘ Local fund ’ means any fund under the control or management of a local authority.”

3. In section 10 of the said Act, for the words “ take them or cause them to be taken without unnecessary delay ” the words “ send them or cause them to be sent within twenty-four hours ” shall be substituted.

* Short title, “ The Cattle-trespass Act Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 104; for Report of the Select Committee, see *ibid.*, 1891, Part V, p. 9; for Proceedings in Council, see *ibid.*, 1890, Part VI, pp. 107 and 111; *ibid.*, 1891, Part VI, p. 9.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act of 1871 (I of 1871), declared in force there by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see *Gazette of India*, 1892, Part II, p. 367. It has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), see *Calcutta Gazette*, 1892, Part I, p. 448.

The Act, as being part of the original Act I of 1871, is in force in Angul and the Khondmals, see the Schedule to the Angul District Regulation, 1894 (I of 1894).

† Rep. by s. 10 of this Act.

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1891.**

4. In section 11 of the said Act, for the words "take them without unnecessary delay" the words "send them or cause them to be sent within twenty-four hours" shall be substituted.

Amendment of section 11, Act I, 1871.

5. (1) To the first paragraph of section 12 of the said Act, prescribing the scale according to which the pound-keeper is to levy a fine for every head of cattle impounded, the following proviso shall be added, namely :—

Additions to section 12, Act I, 1871.

"Provided that, when it appears to the Local Government from the report of a Magistrate of a District, or on the representation of a Local authority, that, in any local area subject to the jurisdiction or control of such Magistrate or authority, cattle are habitually allowed to trespass on land and damage crops or other produce thereon, the Local Government may, by notification in the official Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the foregoing scale, as may be prescribed in the notification."

(2) After the third paragraph of the same section the following shall be added, namely :—

"The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under the proviso to the first paragraph of this section."

Substitution of new Chapter for Chapter V, Act I, 1871.

6. For Chapter V of the said Act the following shall be substituted, namely :—

"CHAPTER V.

"COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

20. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

Power to make complaints.

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

Procedure on complaint.

"If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle ;

“ and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

23. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate.”

7. In section 25 of the said Act the words “ under the next following section or ” shall be inserted between the words “ Any fine imposed ” and the words “ for the offence of mischief.”

8. To section 26 of the said Act the following shall be added, namely :—

“ The Local Government, by notification * in the official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words ‘ fifty rupees ’ were substituted for the words ‘ ten rupees ’ or as if there were both such reference and such substitution,

“ The Local Government may at any-time, by notification in the official Gazette, cancel or vary a notification under this section.”

9. After Chapter VII the following shall be added, namely :—

“ CHAPTER VIII.

“ SUPPLEMENTAL.

31.† The Local Government may, from time to time, by notification in the official Gazette,—

(a) transfer to any local authority, within any part of the territories under its administration in which this Act is in operation, all or

* For notifications issued under the powers conferred by this section, see note to s. 26 of the original Act, I of 1871.

† For notifications issued under the powers conferred by this section, see note to s. 31 of Act I of 1871.

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any of the functions of the Local Government or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority, or

- (b) direct that the whole or any part of the surplus accruing in any district under section 18 of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may, from time to time, by notification in the official Gazette, cancel or vary any notification under this section."

Repeal of Act XVIII,
1883.

10. Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*), is hereby repealed :

Provided that orders which have been made and notified under that Act by the Local Government and are in force immediately before the commencement of this Act shall be deemed to have been made under the Cattle-trespass Act, 1871, as amended by this Act.

11. In 'section 6, sub-section (3), of the Cantonments Acts, 1889, for the words and figures "Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*)," the words and figures "the Cattle-trespass Act, 1871," shall be substituted.

Amendment of section 6,
(3), Act XIII, 1889.

12. Any enactment or document referring to the Cattle-trespass Act, 1871, or to Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*), shall be construed to refer to the Cattle-trespass Act, 1871, as amended by this Act.

Saving of references.

Commencement.

13. This Act shall come into force on the first day of April, 1891.

ACT II OF 1891.*

RECEIVED THE G.-G.'S ASSENT ON THE 6TH FEBRUARY 1891.

An Act to amend the Indian Christian Marriage Act, 1872.

WHEREAS it is expedient to amend the Indian Christian Marriage Act, 1872; It is hereby enacted as follows:—

Substitution of new section for section 6, Act XV, 1872.

1. (1) For section 6 of the Indian Christian Marriage Act, 1872, the following shall be substituted, namely:—

†“ 6. The Local Government, so far as regards the territories under its administration, and the Governor-General in Council, so far as regards any Native State, may, by notification in the local official Gazette or in the Gazette of India, as the case may be, grant licenses to Ministers of Religion to solemnize marriages within such territories and State, respectively, and may, by a like notification, revoke such licenses ”

(2) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) shall be deemed, if in force on the day on which the Indian Marriage Act, 1865, came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the day on which the Indian Christian Marriage Act, 1872, came into force, to have been, since that Act came into force, a license granted under that Act.

(3) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*), the Indian Marriage Act, 1865, or the Indian Christian Marriage Act, 1872, shall, if in force immediately before the commencement of this Act, be deemed to have been granted under the Indian Christian Marriage Act, 1872, as amended by subsection (1) of this section.

* Short title, “ The Indian Christian Marriage Act (1872) Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 110; for Report of the Select Committee, see *ibid.*, 1891, Part V, p. 17; for Proceedings in Council, see *ibid.*, 1890, Part VI, pp. 113 and 144, *ibid.*, 1891, Part VI, pp. 5 and 15.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, XV of 1872, declared in force there by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see *Gazette of India*, 1892, Part II, p. 367. It has also been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), see *Calcutta Gazette*, 1892, Part I, p. 448.

† For notifications issued under the powers conferred by this section, see the original Act, XV of 1872,

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(4) [*Repeal of Act XV of 1884.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Addition to proviso to section 10, Act XV, 1872.

2. To the proviso to section 10 of the said Act the following shall be added, namely :—

“ or

(3) a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of the Church of Scotland.”

3. In section 11 of the said Act, after the words “ other than a church ” the words “ where worship is generally held according to the forms of the Church of England ” shall be added, and between the word “ no ” and the word “ church ” in the expression “ unless there is no church ” the word “ such ” shall be inserted.

Amendment of section 11, Act XV, 1872.

Substitution of new section for section 62, Act XV, 1872.

4. (1) For section 62 of the said Act the following shall be substituted, namely :—

* “ 62. (1) Every person licensed under section 9 shall keep in English, or in the vernacular language in ordinary use in the district or State in which the marriage was solemnized, and in such form as the Local Government by which he was licensed may from time to time prescribe, a register-book of all marriages solemnized under this Part in his presence, and shall deposit in the office of the Registrar-General of Births, Deaths and Marriages for the territories under the administration of the said Local Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals.

Keeping of register-book and deposit of extracts therefrom with Registrar-General.

“ (2) Where the person keeping the register-book was licensed as regards a Native State by the Governor-General in Council, references in sub-section (1) to the Local Government therein mentioned shall be read as references to the Local Government to whose Registrar-General of Births, Deaths and Marriages certified copies of entries in registers of births and deaths are for the time being required to be sent under section 24, sub-section (2), of the Births, Deaths and Marriages Registration Act, 1886.” †

Substitution of new section for section 66, Act XV, 1872.

5. For section 66 of the said Act the following shall be substituted, namely :—

False oath, declaration, notice or certificate for procuring marriage.

“ 66. Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

* For notifications issued under this section, see note to s. 62 in the original Act, XV of 1872.

† Sub-section (2) of s. 4, which repeals cl. (c) of s. 30 of the Births, Deaths and Marriages Registration Act, 1886, was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

- (a) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or
- (b) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the Indian Penal Code with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine."

Substitution of new section for section 68, Act XV, 1872.

6. For section 68 of the said Act the following shall be substituted, namely:—

"68. Whoever, not being authorized by section 5 of this Act to solemnize marriages, solemnizes or professes to solemnize, in the absence of a Marriage Registrar of the District in which the ceremony takes place, a marriage

Solemnizing marriage without due authority.

between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years and not exceeding ten years,

or, if the offender is an European or American, with penal servitude according to the provisions of Act XXIV of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts*),

and shall also be liable to fine."

Addition to section 69, Act XV, 1872.

7. To section 69 of the said Act the following shall be added, namely:—

"Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies and customs of the Church of Scotland."

Amendment of sections 71 and 72, Act XV, 1872.

8. (1) For clause (2) of section 71 of the said Act the following shall be substituted, namely:—

"(2) after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage, solemnizes such marriage;".

(2) In section 72 of the said Act, for the words "three months" the words "two months" shall be substituted.

Addition to section 74, Act XV, 1872.

9. To section 74 of the said Act the following shall be added, namely:—

"Whoever, being licensed to grant certificates of marriage under Part VI of this Act, without just cause refuses, or wilfully neglects or omits, to

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perform any of the duties imposed upon him by that Part, shall be punished with fine which may extend to one hundred rupees."

10. Section 86 of the said Act shall be read as if the words "situate within or bordering on" instead of the words "situate within the local limits of" had been enacted in that section when the Act was passed.

Amendment of section
86, Act XV, 1872.

ACT III OF 1891.*

RECEIVED THE G.-G.'S ASSENT ON THE 13TH FEBRUARY 1891.

An Act to amend the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.†

WHEREAS it is expedient to amend the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882; † It is hereby enacted as follows :—

Indian Evidence Act, 1872.

1. (1) For the *Explanation* to section 14 of the Indian Evidence Act, 1872, the following shall be substituted, namely :—

Amendment of section
14, Act I, 1872.

"*Explanation 1.*—A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

"*Explanation 2.*—But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact."

* Short title, "The Indian Evidence Act (1872) Amendment Act, 1891." See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 100; for the Report of the Select Committee, see *ibid.*, 1891, Part V, p. 25; for Proceedings in Council, see *ibid.*, 1890, Part VI, pp. 105 and 144; *ibid.*, 1891, Part VI, pp. 17 and 21. So far as this Act amends Act I of 1872, it is in force in Upper Burma (except the Shan States) as being part of that Act, declared in force there by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1890.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see *Gazette of India*, 1892, Part II, p. 367. It has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), see *Calcutta Gazette*, 1892, Part I, p. 448.

The Act, as being part of the original Act, I of 1872, is in force in Angul and the Khondmals, see Schedule to the Angul District Regulation, 1894 (I of 1894); and has been declared applicable to Hill-tribes in the Kachin Hill-tracts of Upper Burma, see Schedule to the Kachin Hill-tribes Regulation, 1895 (I of 1895); to Chins in the Chin Hills of Upper Burma, see Schedule to the Chin Hills Regulation, 1896 (V of 1896).

Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) For *Illustration (b)* to the same section the following shall be substituted, namely :—

“(b) A is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

“The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant.

“The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant.”

2. In section 15 of the said Act, after the word “intentional,” there shall be inserted the words “or done with a particular knowledge or intention.”

Amendment of section 15, Act I, 1872.

Addition to section 26, Act I, 1872.

3. To section 26 of the said Act the following shall be added, namely :—

“*Explanation.*—In this section ‘Magistrate’ does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George or in Burma or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 1882.*

Addition of *Explanation* to section 30, Act I, 1872.

4. In section 30 of the said Act, immediately before the *Illustrations* the following shall be inserted, namely :—

“*Explanation.*—‘Offence’ as used in this section includes the abetment of, or attempt to commit, the offence.”

Addition to section 43, Act I, 1872.

5. To section 43 of the said Act the following *Illustrations* shall be added, namely :—

“(e) A is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.

“(f) A is tried for the murder of B. The fact that B prosecuted A for libel and that A was convicted and sentenced is relevant under section 8 as showing the motive for the fact in issue.”

Substitution of new section for section 54, Act I, 1872.

6. For section 54 of the said Act the following shall be substituted, namely :—

“54. In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

“*Explanation 1.*—This section does not apply to cases in which the bad character of any person is itself a fact in issue.

“*Explanation 2.*—A previous conviction is relevant as evidence of bad character.”

7. In the *Explanation* to section 55, after the word “but” there shall be inserted the words and figures “except as provided in section 54.”

Amendment of *Explanation* to section 55, Act I, 1872.

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Amendment of section
86, Act I, 1872.

8. In section 86 of the said Act, for the words "resident in" the words "in or for" shall be substituted.*

Code of Criminal Procedure, 1882.

9. [*Amendment of section 310, Act X, 1882.*] *Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).*

ACT V OF 1891.†

RECEIVED THE G.-G.'S ASSENT ON THE 27TH FEBRUARY 1891.

An Act to amend and supplement the Indian Ports Act, 1889.

WHEREAS it is expedient to amend and supplement the Indian Ports Act, 1889 ; It is hereby enacted as follows :—

Substitution of new
clause for section 6 (1) (a),
Act X of 1889.

1. For clause (a) of section 6, sub-section (1), of the Indian Ports Act, 1889, the following shall be substituted, namely :—

" (a) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on which, vessels generally, or vessels of any class defined in the rules, may enter, leave or be moved in any port subject to this‡ Act."

2. Any direction which, having been issued by a Local Government and published in an official Gazette, expressly purports, or may be reasonably held to have been intended, to be a rule under section 7, clause 8, of Act XXII of 1855,§ or under section 7, clause (h), of the Indian Ports Act, 1875,|| or under section 6, sub-section (1), clause (h), of the Indian Ports Act, 1889, or under any other law for the time being in force, with respect to the moving of vessels in any port which is at the commencement of this Act subject to the Indian Ports Act, 1889, shall, if the direction has not been cancelled by the Local Government by a notification in an official

* The words " and to the same section the following shall be added, namely " and the addition were repealed by s. 5 of the Indian Evidence Act, 1899 (V of 1899).

† Short title, " The Indian Ports Act, 1891." See the Indian Short Titles Act, 1897 (XIV of 1897). For Statement of Objects and Reasons, see *Gazette of India*, 1891, Part V, p. 7 ; for Report of the Select Committee, see *ibid.*, 1891, Part IV, p. 10 ; for Proceedings in Council, see *ibid.*, 1891, Part VI, pp. 6, 26 and 30 ; *ibid.*, 1891, Extraordinary, dated January 12, p. 14.

‡ For notifications issued under the powers conferred by s. 6, see note to the original Act, 1889 (X of 1889).

§ Repealed by Act XII of 1875, since also repealed.

Repealed by the Indian Ports Act, 1889 (X of 1889).

Gazette and could, after the commencement of this Act, be issued as a rule made under clause (a) of section 6, sub-section (1), of the Indian Ports Act, 1889, as amended by the foregoing section of this Act, be deemed to have been issued as a rule made under that clause.

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of
1891.**

Definitions.

3. The expressions "port" and "vessel" in this Act have respectively the same meanings as in the Indian Ports Act, 1889.

ACT VI OF 1891.*

RECEIVED THE G.-G.'S ASSENT ON THE 6TH MARCH 1891.

An Act to amend certain Acts respecting Indian Merchant Shipping.

WHEREAS it is expedient to amend certain Acts respecting Indian Merchant Shipping ; It is hereby enacted as follows :—

Act I of 1859.

1. (1) In clause 1 of section 12 of Act I of 1859, for the words "or any higher rank in the service of Her Majesty or of the East India Company," the following words shall be substituted, namely:

Amendment of section 12, Act I, 1859.

"or any corresponding or higher rank in the service of Her Majesty or the rank of commander or first grade officer in the Indian Marine Service,".

(2) In clause 2 of the same section, after the words "any such ship as aforesaid," the following words shall be inserted, namely :—

"or who has attained or shall attain the rank of second grade officer in the Indian Marine Service,".

Addition of section after section 24, Act I, 1859.

2. After section 24 of the same Act the following shall be inserted, namely :—

"24A. (1) When a running agreement with the crew of a foreign-going ship has been made under section 23 and the ship arrives after the next following thirtieth day of June or thirty-first day of December at a port of destination in India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement, for the voyage from such port of destination to the port in India at which the crew have agreed to be discharged.

of running
in certain cases.

* Short title, "The Indian Merchant Shipping Law Amendment Act, 1891." See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 216 ; for the Report of the Select Committee, see *ibid.*, 1891, Part V, p. 33 ; for Proceedings in Council, see *ibid.*, 1891, Part VI, pp. 2, 30 and 32.

**Act VI
of
1891.**

“(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of Chapter III of the Indian Merchant Shipping Act, 1880.”

Addition to section 32,
Act I, 1859.

3. To section 32 of the same Act the following shall be added, namely :—

“Notwithstanding anything in this section or in any other enactment for the time being in force, the owner of home-trade ships or his agent may enter into time-agreements, in forms to be sanctioned by the Governor-General in Council, with individual seamen to serve in any one or more ships belonging to him, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.”

Amendment of section
115, Act I, 1859.

4. To section 115 of the same Act, the following shall be added, namely :—

“and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by the Government in respect of any such lascar or other native seaman who may be discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of the Merchant Shipping Act, 1854, * section 211, and the enactments amending the same.”

Modification of section
118, Act I, 1859.

5. Section 118 of the same Act shall be modified as follows, namely :—

(1) in the definition of “home-trade ship” the words “or in the Straits Settlements” shall be inserted between the words “on the Continent of India” and the words “or in the Island of Ceylon,” and

(2) in the definition of “foreign-going ship” the words “nor in the Straits Settlements” shall be inserted between the words “nor on the Continent of India” and the words “nor in the Island of Ceylon”.

The Indian Merchant Shipping Act, 1880.

Substitution of new section for section 72, Act VII, 1880.

6. For section 72 of the Indian Merchant Shipping Act, 1880, the following shall be substituted, namely :—

Savings.

“72. But nothing in this Chapter shall be deemed to—

(a) affect the declaration of the twenty-third day of October, 1889, in the schedule to this Act, between the Government of the United

See now s. 185 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

- (b) affect section 29 of the Indian Ports Act, 1889, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section."

7. In section 74 of the same Act, after the words "so appointed" the words "or bringing within such limits any wreck which has been found and taken possession of elsewhere" shall be inserted.

Addition of schedule to Act VII, 1880.

8. To the same Act the schedule in the schedule to this Act shall be added.

The Indian Merchant Shipping Act, 1883.

Amendment of section 6, Act V, 1883.

9. To section 6 of the Indian Merchant Shipping Act, 1883, the following shall be added, namely :—

"(4) The Magistrate or other officer whose duty it is under sub-section (1) to report to the Local Government such information as is referred to in that sub-section shall be deemed to be a public servant, and shall have all the powers which an inspector appointed under section 14 of the Merchant Shipping Act, 1854, * has under clauses (1) to (5) of section 15 of that Act, that is to say :—

- (1) he may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage :
- (2) he may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make :
- (3) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make :
- (4) he may require and enforce the production of all books, papers or documents which he considers important for such purpose :
- (5) he may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

* See now s. 728 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) by which this Act has been repealed.

**Act VI
of
1891.**

“(5) The word ‘coasts’ in this section includes the coasts of creeks and tidal rivers.”

New sub-section substituted for sub-section (1) of section 7, Act V, 1883.

10. For sub-section (1) of section 7 of the same Act the following shall be substituted, namely :—

“(1) If the Local Government to which the report prescribed by the last foregoing section has been made or within whose territories any competent witnesses of any such loss, abandonment, stranding, damage or casualty as is described in clause (a), (b), (c) or (d) of sub-section (1) of the same section have arrived or are to be found or any evidence of such supposed loss as is described in clause (e) of the same sub-section can be obtained, is of opinion that a formal investigation into the facts mentioned in any of the said clauses is requisite or expedient, such Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same.”

11. In section 8 of the same Act, after the words “Local Government” the words “or by such officer as the Local Government has empowered in this behalf” shall be inserted.

12. [*Amendment of section 20, Act V, 1883.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Addition of section after section 24, Act V, 1883.

13. After section 24 of the same Act the following shall be added, namely :—

“24A. (1) Notwithstanding anything in the foregoing provisions of this Act, a certificate (whether of competency or service) which has been granted by any Local Government to a master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869,* or of any Order in Council under the said Act, may, if a Court conducting an investigation under this Act finds that the loss, stranding or abandonment of or damage to any ship, or loss of life, has been caused by the wrongful act or default of the master, mate or engineer, or that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, be cancelled or suspended by the Court :

“Provided that the Court shall not cancel or suspend a certificate unless the holder of the certificate was furnished before the commencement of the investigation with the copy of the report or statement required by section 9 or section 10, as the case may be.

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which this Act has been repealed.

"(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate. Act of 1891.

A master, mate or engineer whose certificate has been cancelled or suspended by the Court shall deliver the certificate to the Court, and the Court shall forward it to the Local Government, together with the report which it is required by section 17, sub-section (1), to transmit to that Government.

"(4) A master, mate or engineer failing to deliver a certificate as required by sub-section (3) shall be punished with fine which may extend to five hundred rupees.

"(5) The duties imposed and powers conferred by sections 22, 23 and 24 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself cancelled or suspended the certificate under section 20."

Supplemental.

14. (1) When the certificate of a master, mate, engineer or engine-driver is cancelled or suspended under any law for the

General provision with respect to surrender of certificates.

time being in force, he shall deliver to the Court or person entitled to receive delivery from him of such cancelled or suspended certificate every other

certificate, if any, held by him which has been granted to him under any of the Merchant Shipping Acts,* 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,* or which has been granted to him by any Local Government in British India.

(2) If any master, mate, engineer or engine-driver fails to comply with the requirement of sub-section (1), he shall be punished with fine which may extend to five hundred rupees.

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed.

Act VI
of
1891.

THE SCHEDULE.

(See section 8.)

THE SCHEDULE.

(See Section 72.)

Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of Wrecks on their respective Coasts.

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements:—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul-General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls-General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls-General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls-General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the shipwrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls-General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration * shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.
The Dominion of Canada.
Newfoundland.
The Cape.
Natal.
New South Wales.

Victoria.
Queensland.
Tasmania.
South Australia.
Western Australia.
New Zealand.

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugene Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L.S.) LYTTON.

(L.S.) E. SPULLER.

* The Declaration has been made applicable to India, see s. 6, *supra*.

ACT VII OF 1891.*

RECEIVED THE G.-G.'S ASSENT ON THE 6TH MARCH 1891.

An Act to amend Act X of 1841.

WHEREAS it is expedient to amend the Act of the Governor-General in Council, No. X of 1841 (*an Act for prescribing the rules to be observed in order that ships or vessels belonging to ports within the territories under the government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council made in pursuance of the Statute 3rd & 4th Vict., c. 56*); It is hereby enacted as follows:

1. [*Repeal of a word in section 2, Act X of 1841.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

2. For that portion of section 3 of the said Act, beginning with the words "the persons now authorised" and ending with the words "such other or different persons," the words "such persons" shall be substituted.

Amendment of section 3, Act X of 1841.

3. For sections 8 to 12, both inclusive, of the said Act, the following shall be substituted, namely:—

Substitution of new sections for sections 8 to 12, Act X of 1841.

"8. The certificate of the surveying officer shall be in the form in the schedule to this Act or in such other form as the Governor-General in Council may from time to time prescribe; and such certificate shall be delivered to the registering officer before registry.

Certificate of surveying officer.

"9. Subject to the provisions of section 70 of Act I of 1859 (*An Act for the amendment of the law relating to Merchant Seamen*) as amended by section 9 of the Indian Merchant Seamen's Act, 1876, the tonnage of a ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained according to such of the rules and orders for the time being in force in and under the Merchant Shipping Act,

Measurement of tonnage for purpose of registry.

* Short title, "The Indian Registration of Ships Act (1841) Amendment Act, 1891." See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 248; for Report of the Select Committee, see *ibid.*, 1891, Part V, page 39; for Proceedings in Council, see *ibid.*, 1891, Part VI, pp. 2, 26, 30 and 33.

1854,* as amended by subsequent Acts [including the Merchant Shipping (Tonnage) Act, 1889*], as apply to measurement of tonnage for the purpose of registry.

Act VII
of
1891.

“ 10. Subject to the provisions referred to in the last foregoing section, the tonnage of a ship or vessel requiring to be measured for any purpose other than registry shall be measured and ascertained according to such of the rules and orders for the time being in force in and under the Merchant Shipping Act, 1854,* amended as aforesaid, as apply to measurement of tonnage for a purpose other than registry.

Measurement of tonnage for purpose, other than registry.

“ 11. The rules and orders referred to in section 9 and section 10 of this Act shall, in their application to measurement of tonnage for the purposes of this Act, or of any enactment, rule or order referring to this Act, be read and construed as if the Governor-General in Council were therein named instead of the Board of Trade or the authority for which the Board of Trade has been substituted by section 3 of the Merchant Shipping Act, 1872.*

Substitution of Governor-General in Council for Board of Trade.

“ 12. The true amount of the register tonnage of every ship or vessel to be measured and ascertained according to the rules and orders referred to in section 9 of this Act shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel prior to her being registered.”

register ton-
or vessel.

4. In section 14 of the said Act, to the word “tonnage” wherever it occurs, the word “register” shall be prefixed, and for the words “rules herein prescribed” the words “said rules and orders” shall be substituted.

5. In section 15 of the said Act, † . . . for the words and figures “Act No. II of 1839” the words “the law for the time being in force for the recovery of fines imposed by Criminal Courts” shall be substituted.

Amendment of section 15, Act X of 1841.

6. [*Repeal of words in section 17, Act X of 1841.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) To [section 17 of the said Act] ‡ the words “recoverable as aforesaid” shall be added.

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

† The words “the words, ‘or the East India Company’ are hereby repealed, and” were repealed by the repealing and Amending Act, 1891 (XII of 1891).

‡ These words were substituted for the words “the same section,” by the Repealing and Amending Act, 1891 (XII of 1891).

**Act VII
of
1891.**

Amendment of section
23, Act X of 1841.

7. In section 23 of the said Act, after the words "ten thousand rupees" the words "recoverable as aforesaid" shall be inserted.

Amendment of section
24, Act X of 1841.

8. In section 24 of the said Act, * for the words "for the Governor of Fort William in Bengal or for the Governor in Council of any presidency" and for the words "for the Governor of Fort William in Bengal or the Governor in Council of any presidency" the words "for a Local Government" shall be substituted.

Addition to Act X of
1841.

9. After section 26 of the said Act, and before the Proclamation, the following shall be inserted, namely :—

" 27. The expressions 'Local Government,' 'Local Governments of India' and 'Government of the Presidency,' as used in this Act, shall be deemed to include, and to have always included, every person who is a 'Local Government' as defined in section 2, clause (10), of the General Clauses Act, 1868." †

* The words "the words 'issued under the Company's Seal and' are hereby repealed, and" were repealed by the Repealing and Amending Act, 1891 (XII of

† See now the General Clauses Act, 1897 (X of 1897).

Act VII
of
1891.

" PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No. of Tons.	DEDUCTION ALLOWED.	No. of T
Under Tonnage Deck .. Closed-in spaces above the Tonnage Deck, if any.. Space or spaces between Decks Poop.. .. Forecastle Round-House Other closed-in spaces, if any, as follows :		On account of space required for propelling power .. On account of space occupied by Seamen or Apprentices and appropriated to their use and kept free from goods or stores of every kind not being the personal property of the crew These spaces are the follow- ing, namely :—	
Gross Tonnage ..		Cubic metres.	
Deduction, as <i>per contra</i> ..			
Registered Tonnage ..		TOTAL ..	

[, the undersigned.

-named ship,

this _____ day of
_____ 18_____.

} _____

ACT IX OF 1891.

Act IX
of
1891.

RECEIVED THE G.-G.'S ASSENT ON THE 13TH MARCH 1891.

*An Act to amend the Indian Merchandise Marks Act, 1889,
and the Sea Customs Act, 1878.*

WHEREAS it is expedient to amend the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878; It is hereby enacted as follows:—

1. In section 1, sub-section (2), of the Indian Merchandise Marks Act, 1889, the words “subject to the provision of the last section of this Act” are hereby repealed.

Repeal of part of section 1, Act IV, 1889.

2. Section 19 of the Indian Merchandise Marks Act, 1889, and the words “*Transitory Provision*” prefixed to the section, are hereby repealed.

Repeal of section 19, Act IV, 1889.

3. In clause (e), sub-clause (ii), of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub-section (1), of the Indian Merchandise Marks Act, 1889, for the words “that place and the country in which it is situated are” the words “the country in which that place is situated is” shall be substituted.

Amendment of section 18(e)(ii), Act VIII, 1878.

4. After section 18 of the Indian Merchandise Marks Act, 1889, as amended by this Act, the following shall be added, namely:—

Additions to Act IV, 1889.

“19. For the purposes of section 12 of this Act, and clause (f) of section 18 of the Sea Customs Act, 1878, as amended by this Act, the Governor-General in Council may, by notification in the Gazette of India, declare what classes of goods are included in the expression ‘piece-goods, such as are ordinarily sold by length or by the piece.’

Definition of piece-goods.

“20. (a) The Governor-General in Council may make rules, for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples.

Determination of character of goods by sampling.

“(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under

* Short title, “The Indian Merchandise Marks and Sea Customs Act Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1891, Part V, p. 4; for Report of the Select Committee, see *ibid.*, 1891, Part V, p. 29; for Proceedings in Council, see *ibid.*, 1891, Part VI, pp. 6, 26 and 39.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Acts IV of 1889 and VIII of 1878, declared in force there by the Burma Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

**Act IX
of
1891.**

sub-section (1), the Court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

“(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

“(4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2) desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor-General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

“(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

“(6) Rules under this section shall be made after previous publication.

“21. An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

Information as to commission of offences.

“22. If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India, would under this Act, or under any section of that part of Chapter XVIII of the Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.”

Punishment of abetment in India of acts done out of India.

ACT X OF 1891.*

Act XI
of
1891.

RECEIVED THE G.-G.'S ASSENT ON THE 19TH MARCH 1891.

An Act to amend the Indian Penal Code †

WHEREAS it is expedient to amend the Indian Penal Code ; †

It is hereby enacted as follows :—

Indian Penal Code.

1. In section 375 of the Indian Penal Code, in the clause marked
 Amendment of section 375, Act XLV, 1860. *Fifthly* and in the *Exception*, the word "twelve" shall be substituted for the word "ten".

. †

ACT XI OF 1891.‡

RECEIVED THE G.-G.'S ASSENT ON THE 19TH MARCH 1891.

An Act to amend the Indian Factories Act, 1881.

WHEREAS it is expedient to amend the Indian Factories Act, 1881 ; It is hereby enacted as follows :—

- Short title and com- 1. (1) This Act may be called the Indian
mencement. Factories Act, 1891 ; and

(2) It shall come into force on the first day of January, 1892.

2. The words and figures "and shall come into force on the first day
 Repeal of part of section 1, Act XV of 1881. of July, 1881," in section 1 of the Indian Factories Act, 1881, are hereby repealed.

* Short title, "The Indian Criminal Law Amendment Act, 1891." See the Indian Short Titles Act, 1897 (XIV of 1897). For Statement of Objects and Reasons, see *Gazette of India*, 1891, Part V, p. 5 ; for Report of the Select Committee, see *ibid.*, p. 55 ; and for Debates in Council, see *ibid.*, Extraordinary, dated 12th January 1891, p. 3, and Part VI, pp. 6 and 39.

As being part of Act XLV of 1860 the Act is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899 ; it has been extended under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874) to British Baluchistan, see *Gazette of India*, 1892, Part II, p. 367. It has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed Bengal Code, Vol. I, Ed. 1889, p. 597, see *Calcutta Gazette*, 1892, Part I, p. 448.

† The rest of the title and preamble relates to the Code of Criminal Procedure, 1882 (Act X of 1882), which was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

‡ The rest of the Act, ss. 2 and 3, was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

§ For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 6 ; for Report of the Select Committee, see *ibid.*, 1891, p. 43 ; and for Proceedings in Council, see *ibid.*, 1890, Part VI, pp. 10 and 17, and *ibid.*, 1891, Part VI, p. 86.

**Act XI
of
1891.**

Amendment of definition
of "factory" in section 2,
Act XV, 1881.

3. For clause (b) in section 2 of the said Act, in the definition of the word "factory," the following shall be substituted, namely :—

"(b) wherein, subject to the provisions of section 20, not less than fifty persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; and".

4. (1) For the word "child" in the same section of the said Act, in the definition of the word "employed" the word "person" shall be substituted.

(2) In the same section of the said Act, in the definition of the word "employed" the word "either" is hereby repealed.

Amendment of sections
2, 4, 5 and 16, Act XV,
1881.

5. For the word "twelve" in sections 2, 4, 5 and 16 of the said Act, the word "fourteen" shall be substituted.

Amendment of section 3.
Act XV, 1881.

6. (1) In the first paragraph of section 3 of the said Act, after the word "appoint" the word "by name or by office" shall be inserted.

(2) For the second paragraph of the same section of the said Act, the following shall be substituted, namely :—

"The District Magistrate shall, in virtue of his office, be an Inspector of all factories, if any, in his district."

Amendment of section 4.
Act XV, 1881.

7. In clause (b) of section 4 of the said Act, for the word "provisions" the word "purposes" shall be substituted.

8. In section 5 of the Act, before the word "examine" the words "and on payment by such person of such fee, if any, as may from time to time be prescribed by the Governor-General in Council by notification in the Gazette of India" shall be inserted.

Amendment of section 5,
Act XV, 1881.

Amendment of sections 4,
5 and 16, Act XV, 1881.

9. For the word "seven" in sections 4, 5 and 16 of the said Act the word "nine" shall be substituted.

10. For sections 6 to 11, both inclusive, of the said Act, and for the heading "*Children*" prefixed to the said section 6, the following shall be substituted, namely :—

Substitution of new sec-
tions for sections 6 to 11,
Act XV, 1881

"*All Operatives.*

"5A. (1) In every factory, except a factory in which a system of employment in shifts or sets approved by the local Inspector is in force, there shall between noon and two o'clock in the afternoon be a stoppage of work for a full half-hour :

Limited stoppage of work
daily in certain circum-
stances.

Provided that nothing in this section shall apply to any factory of a class to which the Governor-General in Council has, by notification in the Gazette of India, declared this section not to apply.*

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Holidays. "5B. (1) No person shall be employed in any factory on a Sunday :

(2) Provided as follows :—

(a) any manager, foreman, mechanic, artizan or labourer may be employed in a factory on a Sunday in examining or repairing, or in supervising or aiding in the examination or repair of, any machinery or other thing whatsoever necessary for the carrying on of the work performed in the factory ;

(b) any person may be employed in a factory on a Sunday if he has had or will have a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday ;

(c) the Local Government may from time to time, by notification in the official Gazette, declare sub-section (1) of this section not to apply to any factory or class of factories* (the factory or class being described in the notification) in which the work performed—

(i) necessitates continuous production for technical reasons, or

(ii) supplies the public with articles of prime necessity which must be made every day, or

(iii) by its nature cannot be carried on except at stated seasons or at times dependent on the irregular action of natural forces ; and

(d) the Governor-General in Council may from time to time, by notification in the Gazette of India, declare sub-section (1) of this section not to apply to factories of any class described in the notification.

" Women.

Employment of women. " 6. (1) No woman shall be employed before five o'clock in the morning or after eight o'clock in the evening in any factory in which a system of employment in shifts or sets approved by the local Inspector is not in force.

(2) No woman shall be actually employed in any factory in any one day for more than eleven hours.

(3) Every woman shall be allowed an interval or intervals of rest amounting in the aggregate to at least an hour-and-a-half in the day when she is actually employed for eleven hours and to a proportionately less time when she is actually employed for less than eleven hours.

* The provisions of this section have been declared not to apply to kilns connected with potteries, see *Gazette of India*, 1893, Part I, p. 663.

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(4) The Governor-General in Council may from time to time, by notification in the Gazette of India, declare all or any of the foregoing sub-sections of this section not to apply to factories of any class described in the notification or to women employed in any process so described

" Children.

Employment of children.

" 7. (1) No child shall be employed in any factory if he is under the age of nine years.

No child shall be employed in any factory before five o'clock in the morning or after eight o'clock in the evening.

(3) No child shall be actually employed in any factory for more than seven hours in any one day.

(4) Every child who is actually employed in any factory for six hours in any one day shall be allowed an interval or intervals of rest amounting in the aggregate to at least half-an-hour.

" 8. No occupier of a factory shall allow any child to clean any part of the mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel or other mechanical power, as the case may be.

Prohibition of employment of children in certain dangerous work
" 9. The Local Government may direct any occupier of a factory to keep, in such form and with such particulars as such Government may from time to time prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

" Women and Children.

" 10 (1) The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the district in which the factory is situated, showing the times at which such intervals as are required by section 6, sub-section (3), and section 7, sub-section (4), to be allowed to women and children, respectively, shall be allowed and the length of each interval.

(2) A woman or child shall not be deemed to be actually employed within the meaning of section 6 or section 7 during any such interval as aforesaid.

Prohibition of employment of woman or child in two factories on same day.
" 11. No occupier of a factory shall employ therein on any day any woman or child who has to his knowledge already been employed on the same day in any other factory."

Amendment of section 12,
Act XV, 1881.

11. In clause (a) of section 12 of the said Act the word "or", where it first occurs, is hereby repealed.

Amendment of section 13,
Act XV, 1881.

12. In section 13 of the said Act, after the word "hours" the word "next" shall be inserted, and for the words "such accident" the words "the accident" shall be substituted.

Amendment of section 14,
Act XV, 1881.

13. (1) In section 14 of the said Act, before the words "the place" the words "and of" shall be inserted.

(2) The words "(if any)" in the same section of the said Act are hereby repealed.

Substitution of new section for section 15, Act XV, 1881.

14. For section 15 of the said Act the following shall be substituted, namely :—

Penalties.

" 15. (1) Any person who, in breach of this Act or of any order or rule made thereunder,—

- (a) employs any person in any factory ;
- (b) allows any child to perform the work forbidden by, or to work in contravention, of section 8 ;
- (c) neglects to keep a register in manner prescribed under section 9 ;
- (d) neglects to set up or maintain the notice required by section 10, sub-section (1) ;
- * (e) neglects to fence any machinery or mill-gearing in any factory ;
- (f) neglects to maintain a supply of water for the use of persons employed in any factory ;
- (g) neglects to ventilate any factory or to keep any factory in a cleanly state and free from effluvia arising from any drain, privy or other nuisance ;
- (h) suffers any factory to be so overcrowded, while work is carried on therein, as to be injurious to the health of the persons employed therein ; or
- (i) neglects to send any notice or furnish any return,

shall be punished with fine which may extend to two hundred rupees:

Provided that—

- (i) no prosecution under this sub-section shall be instituted except by, or with the previous sanction of, the local Inspector ; and
- (ii) no person shall be liable under this sub-section to more than one penalty for any one description of offence committed on the

* Cf. the Factories Act, 1844 (7 & 8 Vict., c. 15), s. 43 ; and the Factories Act, 1856 (19 & 20 Vict., c. 38), s. 6. Both Acts are repealed by the Factories and Workshops Act, 1878 (41 & 42 Vict., c. 16).

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same day, except where two or more persons are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each person so employed.

(2) Any person who corruptly uses or attempts to use, as a certificate granted to himself under section 5, a certificate granted to another person under that section, or who, having procured a certificate under the said section, corruptly allows it to be used, or an attempt to use it to be made, by another person, shall be punished with fine which may extend to twenty rupees."

Amendment of section
17, Act XV, 1881.

15. For section 17 of the said Act the following shall be substituted, namely :—

" 17. Every occupier of a factory shall be deemed primarily liable for any breach therein of this Act or of any order or rule made thereunder; but he may discharge himself from such liability by proof that such breach was committed by some other person without his knowledge or consent, and in that case the person committing such breach shall be liable therefor."

Occupier primarily liable
for breaches of Act or or-
ders or rules thereunder.

Amendment of section
18, Act XV, 1881.

16. (1) For section 18 of the said Act the following shall be substituted, namely :—

"18. (1) Subject to the control of the Governor-General in Council, the Local Government may from time to time make rules consistent with this Act to provide for*—

Power to make rules.

- (a) the fencing of machinery and mill-gearing in factories ;
- (b) the water-supply to be maintained for the use of persons employed in factories ;
- (c) the ventilation of factories and their cleanliness (including lime-washing, painting, varnishing and washing) and freedom from effluvia arising from any drain, privy or other nuisance ;
- (d) the prevention of such overcrowding of factories, while work is carried on therein, as is likely to be injurious to the health of the persons employed therein ;
- (e) the inspection of factories ;
- (f) the manner in which appeals under this Act are to be presented and heard ; and
- (g) otherwise carrying out the purposes of this Act.

(2) The Governor-General in Council may from time to time make rules requiring occupiers of factories to furnish such returns, occasional or periodical, as may be necessary for the effectual carrying out of this Act.

(3) Such rules shall be published in the local official Gazette, or the Gazette of India, as the case may be, and shall thereupon have the force of law.

For rules issued in accordance with this provision, see the footnote to s. 18.

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of
1891.

(4) Before making rules under clause (b), clause (c) or clause (d) of sub-section (1) of this section the Local Government, and before making rules under sub-section (2) of this section the Governor-General in Council, shall publish in such manner as may in its or his opinion be sufficient for giving information to persons interested a draft of the proposed rules, with a notice specifying a date (not less remote than two months from the publication of the notice) at or after which the draft will be taken into consideration, and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified."

Amendment of section 19,
Act XV, 1881.

17. In section 19 of the said Act, the word "such", where it occurs before the word "factory", is hereby repealed.

Addition of a section to
Act XV, 1881.

18. To the said Act the following shall be added, namely :—

" 20. (1) Notwithstanding anything in clause (b) of the definition of the word "factory" in section 2, the Local Government may from time to time, by notification in the official Gazette, declare any premises or premises of any class, which fulfil the other conditions of the said definition, to be a factory for all the purposes of this Act, or for such of those purposes as may be specified in the notification, if the number of persons simultaneously employed in the premises on any day in any manual labour in, or incidental to, any such process as is referred to in the said clause (b) is less than fifty and not less than twenty.

" (2) The Local Government may, by such notification, fix any number below fifty and not below twenty as the number of persons whose simultaneous employment as aforesaid is to be held to subject premises, as a factory, to all or any of the provisions of this Act and of the orders and rules made thereunder."

References to Act XV of
1881 to be read as refer-
ences to that Act as amend-
ed by this Act.

19. A reference in any enactment or document to the Indian Factories Act, 1881, shall be read as a reference to that Act as amended by this Act.

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of
1891.

ACT XII OF 1891.*

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1891.

An Act to repeal certain Obsolete Enactments and to amend certain other Enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

And whereas it is also expedient that certain amendments should be made in the enactments specified in the second schedule to this Act;

It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Repealing and Amending Act, 1891.

(2) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once.

Enactments in schedules repealed and amended respectively.

2. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof; but nothing in this sub-section shall affect any Act passed after this Act comes into force by the Governor of Madras in Council, the Governor of Bombay in Council, the Lieutenant-Governor of Bengal in Council or the Lieutenant-Governor of the North-Western Provinces and Oudh in Council.

(3) The modifications hereby made in the Foreign Jurisdiction and Extradition Act, 1879, section 6, and the Cantonments Act, 1889, section 1, shall have effect as from the commencement of those Acts respectively.

3. The repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to;

Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability

* For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part I, p. 214; for Report of the Select Committee, see *ibid.*, 1891, p. 65; and for Proceedings in Council, see *ibid.*, 1890, Part VI, p. 142, and *ibid.*, 1891, p. 111.

This Act has been declared in force in the Santhal Parganas, by notification under s. 8 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. Bd. 1889, p. 597, see *Calcutta Gazette*, 1892, Part I, p. 448. The Act so far as it may be applicable has been extended to the Shan States by the Shan States Laws and

already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

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nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

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THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Part I.—Acts of the Governor-General in Council.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1835	II	Control of officers in Assam, Arakan and Tenasserim.	So much as has not been repealed.
"	VI	Control of officers in Khasi Hills and Cachar.	So much as has not been repealed.
"	XXI	Assistant to Agent for Sardars, Dekkhan.	In section 1, <i>the words</i> and in the trial of such suits the Assistant shall follow the same rules which are now applicable to the Agent <i>and the words and figures</i> under the provisions of Chapter XXII, Regulation IV of 1827 of the Bombay Code.
1836	X	Indigo-contracts	The whole Act, so far as it applies to Assam.
"	XXVI	Camp Police	So much as has not been repealed.
1838	V	Bengal Bonded Warehouse.	<i>The words</i> And it is hereby enacted that, <i>wherever they occur.</i> In sections 3, 5, 7, 8, 9, 10, 17, 18, 20, 22, 23, 24 and 27, <i>the word</i> that <i>wherever it occurs</i> after the word <i>and</i> . In section 31, <i>the word</i> that <i>where</i> it occurs after the word <i>but</i> .
"	XXV	Wills	In sections 2 to 5, 7 to 20 and 31, <i>the words</i> And it is hereby enacted that. In section 2, <i>the words</i> except so far as relates to His Majesty's colonies and plantations in America. In sections 3 and 31, <i>the word</i> that <i>wherever it occurs</i> . In section 4, <i>the word</i> that <i>where</i> it occurs before the words <i>the power</i> . In section 6, <i>the words</i> provided also and it is hereby enacted that. Section 30.

Part I.—Acts of the Governor-General in Council—contd.

Act III
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1839	VII	Tahsildars, Madras ...	Section 4.
"	XXIV	Ganjam and Vizagapatam.	In section 7, <i>the word fourth.</i>
"	XXVII	Execution by the Court of Requests, Calcutta, of decrees of Courts of 24-Pergunnahs.	The whole.
"	XXIX	Dower	In sections 2 to 10, 12 and 14, <i>the words</i> And it is hereby further enacted that. In section 11, <i>the words</i> And it is hereby further enacted. In section 15, <i>the words</i> And it is hereby provided that. Section 13.
"	XXX	Inheritance	<i>The words</i> And it is hereby further enacted that <i>and</i> And it is hereby further enacted and declared that, <i>whenever they occur.</i> In section 7, <i>the words</i> also that <i>and the word</i> that. In section 13, <i>the words</i> And it is hereby provided that.
1840	X	Temple of Jagannath ..	So much as has not been repealed.
1841	XXIV	Illusory appointments, etc.	Section 4, so far as it relates to section 10 of the Statute 11 George IV and 1 William IV, chapter 47. Section 5, <i>from</i> or any proceedings <i>to the end.</i>
1842	IX	Lease and Release ..	So far as it has not been repealed.
1844	VI	Land-customs, Madras ..	In the title, <i>the word</i> abolishing, <i>the words</i> transit or <i>and the words</i> for revising the duties on imports and exports by sea, and for determining the price at which salt shall be sold for home consumption.
1846	I	Pleaders	In section 6, <i>the words and figures</i> Section 25, Regulation XXVII, 1814, of the Bengal Code; Section 25, Regulation XIV, 1816, of the Madras Code; and. In section 13, <i>the numerals</i> VII.

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1851.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1847	IX	Assessment of new lands.	In section 1, <i>the words</i> and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued.
1848	X	Mandvee	So much as has not been repealed.
"	XVIII	Nawab of Surat	Section 2. In the schedule, the names and descriptions numbered 1, 2, 3, 5, 6 and 7.
1850	XXV	Forfeited deposits ..	In the title, <i>the words and figures</i> and Act IV, 1846. In the preamble, <i>the words</i> and judgment-debtors, <i>the words and figures</i> and in section V, Act IV, 1846, and <i>the words</i> in execution of decrees or.
"	XXXIV	State Prisoners	Section 3.
1853	VI	Summary suits for arrears of rent, etc.	In the preamble, <i>the words and figures</i> from and whereas it is expedient to Act VIII, 1835, and <i>the words</i> from and to prevent to wrong district.
"	VIII	Colaba	So much as has not been repealed.
"	XIX	Evidence	In section 26, <i>the words</i> in addition to any proceedings under this Act.
1855	X	Witnesses	In the title, <i>the words and figures</i> and to amend the provisions of section XL, Act XIX of 1853.
"	XXIV	Penal Servitude	In the title, <i>the words</i> and to amend the law relating to the removal of such convicts. In the preamble, <i>the words</i> and to amend the law relating to the removal of European and American convicts for the purpose of imprisonment.
"	XXXVII	Santhal Districts ..	In section 1, clause 1, <i>the words</i> extend to or affect any case now pending in any Court, nor.
1856	XII	Civil Court Amins ..	In the preamble, <i>the words and figures</i> from and whereas to other agency. Section 10 from Whenever to the end.
"	XIII	Police	In section 1, <i>the words and figures</i> from Sections XXII to the end.

Part I.—Acts of the Governor-General in Council—contd.

Act XXII
of
1861.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1856	XIII. —contd.	Police—contd. ..	In section 2, definition of "Local Government" <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
			In section 3, <i>the words and figure</i> except as is otherwise provided by section 1 of this Act.
			Form B in the Schedule of Forms.
"	XVIII	Collector of Calcutta ..	In the preamble, <i>the words</i> should have charge of the collection of the stamp-duty within the town of Calcutta, and that he.
			Section 1.
			In section 3, <i>the words and figures</i> the said Regulation, or under Act XI of 1849, or.
"	XX	Chaukidars	In sections 10, 21, 33, 34, 36 and 59, <i>the words</i> of Circuit.
			Section 60.
"	XXII	Tolls, Karatoya River ..	In section 5, <i>the words and figures</i> Regulation I of 1824, or of.
1857	II	Calcutta University ..	In section 1, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
"	IV	Tobacco, Bombay Town...	Section 2, <i>from</i> and such duty <i>to the end</i> .
			Section 5, <i>from</i> The import-duty <i>to the end</i> .
"	XIII	Opium	In the preamble, <i>the words</i> that certain obsolete Regulations relating to the provision of opium should be formally repealed, and.
"	XXI	Howrah	Section 54, the second proviso.
			Section 58.
"	XXII	Bombay University ..	In section 1, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
"	XXV	Forfeiture of property ..	In the title, <i>the words</i> to render officers and soldiers in the Native Army liable to forfeiture of property for mutiny, and.

REPEALING AND AMENDING ACT.

Part I.—Acts of the Governor-General in Council—contd.

Act XXI
of
1861.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1857	XXV —contd.	Forfeiture of property— contd.	In the preamble, <i>the words to render officers and soldiers in the Native Army, who shall be convicted of mutiny, subject to the forfeiture of all their property, and.</i>
"	XXVII	Madras University ..	In section 1, <i>the words in the possession and, the words the East, and the word Company.</i>
1858	III	State Prisoners	Section 4. In section 5, <i>the words in the possession and, the words the East, and the word Company.</i>
"	XXXVII	Nawab of the Carnatic ..	The preamble, <i>from and that to commencement of this Act.</i> Section 2. Schedules B and C.
1859	IX	Claims to property seized as forfeited.	In the preamble, <i>the words from to make provision to also expedient.</i>
"	X	Rent	The schedule, Forms E and F.
"	XI	Sales of land for arrears of revenue.	Section 4. In section 53, <i>the words and figures sharers in estates under butwarah who may have saved their shares from sale under sections XXXIII and XXXIV, Regulation XIX, 1814, and.</i>
1860	XIV	King of Oudh	The whole.
"	XXII	Hill Tracts of Chittagong.	Section 1, proviso.
"	XXIII	Amending Act XXI of 1856 (Abkari).	The whole Act, so far as it applies to Assam.
"	XLV	Indian Penal Code ..	In section 1, <i>the words and figures on and from the first day of May, 1861.</i> In sections 1 and 15, <i>the words except the Settlement of Prince of Wales' Island, Singapore and Malacca.</i> In sections 2 and 4, <i>the words and figures on or after the said first day of May, 1861.</i> In section 410, <i>the word the, where it occurs after the word which.</i>
1862	VII	King of Oudh	So much as has not been repealed.
1863	XVI	Spirits used in Manufactures, etc.	Section 8.

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1864	XVII	Official Trustees	Section 3.
1865	VII	Government Forests Act, 1865.	The whole Act, so far as it has not been repealed by the Indian Forest Act, 1878, and the Lower Burma Forest Act, 1881.
"	X	Indian Succession Act, 1865.	In section 3, <i>the words</i> other than the Settlement of Prince of Wales' Island, Singapore and Malacca.
1866	XXI	Native Converts' Marriage Dissolution Act, 1866.	In section 35, <i>the words</i> except the Settlement of Prince of Wales' Island, Singapore and Malacca. In the first schedule, <i>the words</i> Rs. two.
"	XXV	Transfer to Government of Deposits in High Courts.	In the preamble, <i>the words</i> or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, and <i>the words</i> now or hereafter. In section 1, <i>the words</i> or of the late Supreme Courts of Calcutta, Madras and Bombay, and <i>the words</i> now or hereafter.
1867	XXII	Sarhis Act, 1867	Section 1. In section 17, <i>the words</i> and the Settlement of Prince of Wales' Island, Singapore and Malacca.
"	XXIII	Murderous Outrages, Punjab.	Section 17.
"	XXV	Printing Presses and Books.	In section 1, <i>the words</i> other than the Settlement of Prince of Wales' Island, Singapore and Malacca.
*
1868	V	Commissioner in Sindh ..	The schedule, so far as it relates to Act XXVI of 1850.
"	XVIII	Small Cause Jurisdiction, Nilgiris.	So much as has not been repealed.
"	XXI	Nawáb of the Carnatic ..	The whole.

* The entry relating to Act I of 1868 was repealed by the General Clauses Act, 1897.

Act III
of
1891.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1869	XIV	Bombay Civil Courts Act, 1869.	In section 32, proviso, clause (b) [added by Act XV of 1880, section 3], <i>the words and figures</i> or selected under Act No. XX of 1864 (<i>for making better provision for the care of the persons and property of minors in the Presidency of Bombay</i>), section 9, and the words or selection.*
1870	VII	Court-fees Act, 1870 ..	In section 3, <i>the word</i> sixteen. In section 7, paragraph iv, last clause, <i>the words</i> and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if for the word 'claim' the words 'relief sought' were substituted. Section 10, clause iii. Section 19, clause ii. In section 19C (inserted by Act XIII of 1875, section 6), first line, <i>the word</i> such. In section 19G (inserted by Act XIII of 1875, section 6), <i>the words and figures</i> after the first day of April, 1875, or. Sections 24 and 32. Schedule II, Articles 8 and 9.
"	XXI	Hindu Wills Act, 1870 ..	In section 6, <i>the words</i> and Parts.
"	XXVI	Prisons Act, 1870 ..	In section 9, <i>the words</i> (subject to the approval of the Governor-General of India in Council).
"	XXVII	Amending the Indian Penal Code.	Sections 7, 9 and 14.
1871	II	Extending the Prisons Act, 1870, to Coorg.	So much as has not been repealed.
"	IV	Coroners Act, 1871 ..	Section 4, the second paragraph.
"	XXI	Dehrá Dun	Section 1, <i>from</i> and no judgment to the end.

* Cf. also s. 3 of the Bombay Civil Courts Act Amendment Act, 1895 (III of 1895).

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1871	XXI —contd.	Dehrá Dun—contd.	In section 2, <i>the words</i> and shall be deemed to have been heretofore authorized to exercise. In section 3, <i>the words</i> shall be deemed to have been heretofore the District Court of the said district of Dehrá Dun, and, <i>and the words and figures</i> and may, subject to the provisions of Act VI of 1871, hear appeals from decisions given in the said district before the passing of this Act. In section 4, <i>the words and figures</i> and referred to in section eleven of Act XXIV of 1864.
"	XXII	Amending Act XX of 1856 (Chaukidárs).	Section 5. In section 6, <i>the words</i> but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.
"	XXIII	Pensions Act, 1871	Section 1, <i>from</i> but not so as to affect to the end.
"	XXVI	Land Improvement Act, 1871.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
1872	IV	Punjab Laws Act, 1872..	Section 33. Section 39G (inserted by Act XV of 1875, section 2). The first schedule, so far as it relates to Act XVII of 1861.
"	XV	Indian Christian Marriage Act, 1872.	In section 68 (as amended by Act II of 1891, section 6), <i>the words</i> "and to amend the law relating to the removal of such convicts."
1873	III	Madras Civil Courts Act, 1873.	In section 13, <i>the words and figures</i> or appeals under Madras Regulation XI of 1832, section 9. Section 29, the second and third paragraphs.

Act XII
of
1891.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1873	IV	Punjab Municipal Act, 1873.	So far as it has not been repealed.
"	V	Government Savings Banks Act, 1873.	In section 5, <i>the words</i> the said.
"	XVI	North-Western Provinces Village and Road Police Act, 1873.	In section 1, <i>the words and figures</i> so far as regards the repeal of Act No. III of 1869, this Act extends to the whole of British India: the rest of.
"	XIX	North-Western Provinces Land-revenue Act, 1873.	Section 2, the third paragraph.
"	XX	Prince of Arcot's Privilege Act, 1873.	The whole.
1874	I	Quieting of Titles, North-Western Provinces.	The whole.
"	III	Married Women's Property Act, 1874.	In section 9, <i>the words</i> affect any suit instituted before the passing of this Act, nor.
"	VIII	Exercise of Powers in Assam.	Section 3.
"	XIV	Scheduled Districts Act, 1874.	In section 10, <i>the words and figures</i> and No. XXV of 1869. In the first schedule, Part I, No. I, <i>the figure and words</i> (9) the Chighatti Maliah. The first schedule, Part XIII.
"	XV	Laws Local Extent Act, 1874.	Section 8, clause (f). The first schedule, so far as it relates to Acts IX of 1842, XVIII of 1854, VIII of 1859, XIV of 1859, XV of 1859, XXIII of 1861, VI of 1863, X of 1866 and X of 1868. The second schedule, so far as it relates to Madras Regulations III of 1802, section 11, I of 1805, II of 1807, IV of 1816, IX of 1816 and XIV of 1816 and Acts XVII of 1840, VII of 1852 and XI of 1869.

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1874	XV —contd.	Laws Local Extent Act, 1874—contd.	<p>The third schedule, so far as it relates to Bombay Regulations XII of 1827, preamble, XVI of 1827 and XXI of 1827 and Acts XI of 1843, III of 1852 and XXI of 1852.</p> <p>The fourth schedule, so far as it relates to Bengal Regulations XLVIII of 1793, III of 1794, section 12, XV of 1797, I of 1798, XVII of 1806, XI of 1811, XIX of 1814, XX of 1817, sections 28 and 32, and VI of 1819 and Acts XX of 1836, XI of 1838, XX of 1856, XXI of 1856 and XXIII of 1860.</p> <p>The fifth schedule, so far as it relates to Bengal Regulations I of 1798, XVII of 1806, XIX of 1810, V of 1817, VI of 1819, VI of 1831 and XI of 1831, sections 4 and 8.</p> <p>In the sixth schedule, Part I, No. I, <i>the figure and words</i> (9) the Chighatti Maliah.</p> <p>The sixth schedule, Part XIII.</p>
1875	XIII	Probates and Letters of Administration.	<p>Section 1.</p> <p>So much of section 6 as directs the insertion of section 19H in the Court-fees Act, 1870.</p>
"	XV	Punjab Laws Amendment Act, 1875.	<p>Section 2, so far as it applies to the Punjab and relates to sections 39A and 39B.</p> <p>Section 2, so far as it relates to section 39G.</p>
"	XX	Central Provinces Laws Act, 1875.	<p>Section 2, proviso.</p> <p>In the third column of Part A of the schedule, in the entry opposite Regulation XI of 1806, <i>the words and figures</i> and with the exception, in section VIII, of the words and figures "under the rules prescribed by Regulation V, 1804."</p> <p>The schedule, so far as it relates to Bengal Regulation VI of 1819 and Act XVIII of 1853.</p>
1876	X	Bombay Revenue Jurisdiction Act, 1876.	<p>Section 2, and the schedule referred to therein.</p>

**Act XII
of
1891.**

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1876	XII	Repealing Act, 1876 ..	The whole.
"	XVII	Oudh Land-revenue Act, 1876.	In section 150, <i>the words</i> stamped or. Section 178, clause (p).
"	XVIII	Oudh Laws Act, 1876 ..	Sections 17, 18 and 41. In the third column of Part I of the second schedule, in the modifications of Regulation XXXIII of 1803, <i>the words</i> for "city" read "jurisdiction," and <i>the words and figures</i> In section IV, omit the words "or in either of the cities of Patna, Dacca or Moorshedabad."
"	XXI	Amending the Land Improvement Act, 1871.	In the third column of Part I of the second schedule, in the modifications of section 8 of Regulation XI of 1806, <i>the words and figures</i> and omit the words and figures "(under the rules prescribed by Regulation V, 1804)," and "in Regulation XXVII, 1803." The second schedule, so far as it relates to Bengal Regulation VI of 1819 and Act XIII of 1857, section 2.
"	XXIII	Opium Act, 1876	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
1877	I	Specific Relief Act, 1877..	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
"	II	Amending Act XIII of 1875 (Probates and Letters of Administration).	Section 2. In section 9, <i>the words</i> instituted within six months from the date of the dis-possession. The schedule.
"	III	Indian Registration Act, 1877.	Section 2. Section 84, the last paragraph.

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1877	VI	Postponing operation of the Opium Act, 1876.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
"	XI	Military Lunatics Act, 1877.	Sections 2 and 9.
"	XV	Indian Limitation Act, 1877.	Section 2, <i>down to the word But</i> . Section 2, the third paragraph. The first schedule.
"	XIX	District Judges	In the preamble, <i>the words</i> the District Judges of the Lower and the North-Western Provinces of the Presidency of Fort William, and.
1878	I	Opium Act, 1878	Section 2, the first and second paragraphs. The schedule.
"	VI	Indian Treasure-trove Act, 1878.	Section 2. The schedule.
"	XI	Indian Arms Act, 1878 ..	Sections 8 and 9. Section 14, the last three paragraphs. The second schedule.
"	XII	Amending the Punjab Laws Act, 1872.	Section 6. Section 7, <i>from All penalties to the end</i> .
"	XVI	Assimilation of Powers, North-Western Provinces and Oudh.	In the preamble, <i>the words</i> and whereas doubts have arisen as to the validity of certain acts done since the said union, and it is expedient to remove such doubts. Section 4, the first paragraph. Section 5, the first paragraph. Sections 7 and 8.
"	XVII	Northern India Ferries Act, 1878.	Section 36.

*Part I.—Acts of the Governor-General in Council—contd.*Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
*
1879	III	Destruction of Records Act, 1879.	Section 9. The schedule.
"	VII	Punjab Additional Financial Commissioner's Act, 1879.	The whole.
"	XII	Amending the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.	In the title, <i>the words</i> the Code of Civil Procedure. The first preamble. Section 108, so far as it refers to Nos. 171, 171A, 171B and 171C of the second schedule to the Indian Limitation Act, 1877.
"	XVII	Dekkhan Agriculturists' Relief Act, 1879.	Section 48, the second paragraph (inserted by Act XXIII of 1881, section 10).
"	XIX	Raipur and Khattra Laws Act, 1879.	Section 3.
†
1880	VII	Indian Merchant Shipping Act, 1880.	In section 72 (as amended by Act VI of 1891, section 6), <i>the word</i> But.
"	IX	Bombay Civil Courts Act, 1880.	Section 3.
"	XIV	Indian Census Act, 1880.	The whole.
"	XV	Bombay Revenue Jurisdiction Act, 1880.	The preamble <i>from</i> and to make <i>to</i> 1871.
1881	II	Pegu and Sittang Canal Act, 1881.	Section 22.
"	V	Probate and Administration Act, 1881.	In section 152, <i>the words</i> the said.
"	IX	Administrator-General's Act, 1881.	So much of section 5 as has not been repealed. Section 6, <i>from</i> and the words <i>to the end</i> .

* The entry relating to the Indian Stamp Act, 1879 (I of 1879), was repealed by the Indian Stamp Act, 1899 (II of 1899).

The entry relating to the Glanders and Farcy Act, 1879 (XX of 1879), was repealed by the Glanders and Farcy Act, 1899 (XIII of 1899).

Part I.—Acts of the Governor-General in Council—contd.

Act XIII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1881	XIII	Fort William Act, 1881 ...	Section 9.
"	XIV	Benares Family Domains Act, 1881.	Sections 2 and 14.
"	XVIII	Central Provinces Land-revenue Act, 1881.	Sections 2 and 8. Section 136 W (inserted by Act XVI of 1889, section 26). The schedule.
"	XIX	Lower Burma Forest Act, 1881.	Section 2. The schedule.
"	XXIII	Dekkhan Agriculturists' Relief Act, 1881.	Sections 4, 5 and 16.
"	XXV	Banki Laws Act, 1881 ...	Section 3. In section 4, the words and figures from And in the following Bengal Regulations to the end.
"	XXVI	Negotiable Instruments Act, 1881.	Section 2. The schedule.
.	.	.	.
1882	II	Indian Trusts Act, 1882 ...	Section 36, the second paragraph. In the schedule, the figures 39.
† "	III	Seditious Publications Act, 1882.	Section 2.
"	VII	Powers-of-attorney Act, 1882.	Section 6.
‡ "	.	.	.

* The entry relating to the Assam Labour and Emigration Act, 1892 (I of 1892), was repealed by the Assam Labour and Emigration Act, 1901 (VI of 1901).

† The rest of the Act has since been repealed by the Indian Post Office Act, 1898 (VI of 1898).

‡ The entry relating to the Code of Criminal Procedure, 1892 (Act X of 1892), was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

Act XII
of
1891.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	
Year.	No.	Subject or title.	Extent of repeal.
1882	XII	Indian Salt Act, 1882 ...	In section 11, <i>the words and figures</i> or under section 11 of the Inland Customs Act, 1875.
"	XIV	Code of Civil Procedure ...	Section 539, the last paragraph.
"	XV	Presidency Small Cause Courts Act, 1882.	In section 1, <i>the figures</i> 1881.
"	XIX	Punjab University Act, 1882.	Section 22.
"	XXII	Dekkhan Agriculturists' Relief Act, 1882.	Sections 17 and 19.
1883	III	Repealing Act XXVII of 1854 (Nāzim of Bengal).	The whole.
"	V	Indian Merchant Shipping Act, 1883.	In section 2, sub-section (2), <i>the words</i> proceedings commenced <i>and the word</i> commenced.
"	VII	Repealing the Lower Burma Labour Law, 1876.	The whole.
"	VIII	Little Cocos and Preparis Islands Laws Act, 1883.	Section 3.
"
"	XIII	Indus Valley State Railway Lands.	Section 1.
"	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	Sections 57 and 60.
"	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	Section 5, <i>from</i> and shall to the end.
"	XIX	Land Improvement Loans Act, 1883.	Section 12, sub-section (2).
1884	I	Honorary Degrees ...	Section 1.

* The entry relating to the Central Provinces Tenancy Act, 1883 (IX of 1883), was repealed by the Central Provinces Tenancy Act, 1896 (XI of 1896).

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1884	II	Unregistered Instruments of Partition, Madras.	In section 2, proviso, <i>the words</i> within three years after the date on which this Act comes into force, or <i>and the words</i> if the transfer is made after this Act comes into force.
*	.	.	.
"	IV	Indian Explosives Act, 1884.	Section 2, sub-section (2).
"	V	Amending the Chutiá Nágpur Encumbered Estates Act, 1876.	Section 8, clause (a). Section 10.
"	VI	Inland Steam-vessels Act, 1884.	In section 3, sub-section (2), <i>the words</i> proceedings commenced <i>and the word</i> commenced.
"	VII	Indian Steam-ships Act, 1884.	Section 2, sub-section (2).
"	VIII	Repealing Bengal Regulation XIX of 1810 in the North-Western Provinces.	The whole.
"	IX	Legal Practitioners Act, 1884.	Section 10, sub-section (2).
"	XIV	Validation of Settlement-officers' Decisions, Punjab.	The whole.
"	XX	Amending the Indian Salt Act, 1882.	The whole.
†	.	.	.
"	XVIII	Punjab Courts Act, 1884 ...	Section 1, sub-section (4). Sections 2, 68 and 69. The schedule.
"	XIX	Rangoon Water-works Act, 1884.	Section 1, sub-section (3).

* The entry relating to the Criminal Procedure Code Amendment Act, 1884 (III of 1884), was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

† The entry relating to the Lower Burma Municipal Act, 1884 (XVII of 1884), was repealed by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

**Act XII
of
1891.**

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1884	XXI	Straits Settlements Emigration.	The whole.
1885	II	Negotiable Instruments Act, 1885.	Section 7. Section 8, clause (b), and the word and at the end of clause (a).
"	VII	Páñch Máháls Laws Act, 1885.	Section 4, <i>from</i> and in Part II to the end.
"	IX	Tariff; Excise; Sea-customs.	In the title and preamble, <i>the words and figures</i> to repeal part of section 6 of the Indian Tariff Act, 1882, and. Section 1.
"	XII	Indian Sea Passengers Act, 1885.	Section 2.
"	XVI	Central Provinces Civil Courts Act, 1885.	Section 1, sub-section (4). Sections 24 and 25.
*
"	XX	Postponing temporarily the operation of certain provisions of the Bengal Tenancy Act, 1885.	The whole.
1886	II	License-tax Amendment ...	Section 1, sub-section (3). The second schedule, Part III, clause (b).
"	IV	Amending the Indian Contract Act, 1872.	Section 2.
"	V	Mirzapur Stone Mahál Act, 1886.	Section 1, sub-section (3). Sections 2 and 19.
"	VI	Births, Deaths and Marriages Registration Act, 1886.	Section 1, sub-section (3).

* The entry relating to the Central Provinces Government Wards Act, 1885 (XVII of 1885), was repealed by the Central Provinces Court of Wards Act, 1899 (XXIV of 1899).

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1886	X	Amending the Code of Criminal Procedure, 1882, etc.	Section 20.* Section 24, sub-section (2).
"	XIII	Indian Securities Act, 1886.	Section 1, sub-section (3).
"	XIV	North-Western Provinces Rent Act, 1886.	Section 6. In section 7, <i>the words</i> the word "other" is repealed; and in <i>and the words</i> of the same section.
"	XVIII	Amending Act XXXVI of 1858 (Lunatic Asylums).	Section 3, so far as it ⁶ relates to section 17A.
† "	XX	Upper Burma Laws Act, 1886.	In section I, sub-section (2), <i>the words</i> within four months from the passing of the Act. Section 5. The first schedule. The second schedule, First Part, so far as it relates to Act V of 1881, section 153.
"	XXII	Oudh Rent Act, 1886 ...	Section 1, sub-section (4).
"	XXMI	D e k k h a n Agriculturists' Relief Act, 1886.	Section 10, sub-sections (1) and (2). Section 12, sub-section (2). Section 13.
"	XXIV	Extension of the Glanders and Farcy Act, 1879, to Bombay.	The whole.
1887	II	Sea-customs; Excise; Tariff.	Sections 7 and 9.
"	IV	Indian Museum Act, 1887...	Section 2.
"	VII	Suits Valuation Act, 1887...	Section 10.

* Section 20 affects the Bombay District Police Act, 1867 (Bombay Act, VII of 1867).

† The Upper Burma Laws Act, 1886 (XX of 1886), has not been entirely repealed by the Burma Laws Act, 1898 (XIII of 1898). Burma Code, Ed. 1899.

Act XII
of
1891.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1887	VIII	Abolishing Military Courts of Requests.	The whole.
"	IX	Provincial Small Cause Courts Act, 1887.	Section 2, down to the word But. In section 17, sub-section (1), the words, as amended by this Act. The first schedule.
"	XII	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 2, down to the word But.
"	XVI	Punjab Tenancy Act, 1887.	Sections 2 and 3. Section 4, clause (11), sub-clause (a). The schedule.
"	XVII	Punjab Land-revenue Act, 1887.	Section 1, sub-section (4). Section 3, clause (9), sub-clause (a).
1888	VI	Debtors Act, 1888	Section 9.
"	VII	Civil Procedure Code Amendment Act, 1888.	Sections 4, 25, 29 and 41. Section 49, sub-section (f). Section 50. Section 52, sub-section (1). Sections 56 and 57. In section 65, sub-section (3), the words "the Code of Civil Procedure." Section 66, sub-section (2).
"	VIII	Tolls	In section 5, the words the words "and the Governor of the Presidency of Bombay in Council" are hereby repealed, and.
"	IX	Repealing enactments relating to contagious diseases.	The whole.

Part 1.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1888	X	Amending the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.	Section 4.
"	XIII	Punjab Courts Act, 1888 ...	Section 3.
"	XVI	Repealing Act VII of 1867 and Madras Regulation XIV of 1832.	The whole.
*
1889	V	Coroner of Madras... ..	Section 3, sub-section (2). Section 4, sub-section (1).
"	VI	Probate and Administration Act, 1889.	Section 9, sub-section (2). Section 18, sub-section (1). Section 21.
"	XI	Lower Burma Courts Act, 1889.	The first and second schedules, so far as they relate to Regulation VII of 1886.
"	XII	Amending the Indian Merchandise Marks Act, 1889.	The whole.
"	XIII	Cantonments Act, 1889 ...	In sections 8, 21 and 26, the <i>figures</i> 1881, <i>wherever they occur</i> .
"	XVI	Central Provinces Land-revenue Act, 1889.	Section 3. In section 26, the words and figures section 136 is hereby repealed, and. Section 26, so far as it relates to section 136W. Section 29, sub-section (2), <i>from</i> and the last <i>to the end</i> . Sections 30, 31 and 36.
†

* The entry relating to Act XIX of 1888 was repealed by the Burma Laws Act, 1898 (XIII of 1898). Burma, Code, Ed. 1899.

† The entry relating to the Central Provinces Tenancy Act, 1889 (XVII of 1889), was repealed by the Central Provinces Tenancy Act, 1896 (XI of 1896).

Act XII
of
1891.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1889	XX	Amending Act XXXVI of 1858 (Lunatic Asylums).	Section 3.
1890	II	Amending Act XVII of 1864, etc.	Section 11, sub-section (2).
"	III	Amending the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884.	Section 3. Section 4, sub-section (1). Sections 5 and 16. Section 17, sub-section (1). Section 18.
"	V	Forest Act, 1890	Section 21.
"	X	Amending Act XXV of 1867 (Printing-presses and Books).	Sections 1, 2 and 7.
"	XVIII	Amending the Indian Emigration Act, 1883.	Section 6
"	XIX	Amending the Indian Salt Act, 1882.	Section 5, and the preamble prefixed thereto.
"	XX	North-Western Provinces and Oudh Act, 1890.	Section 17. Section 21, sub-section (2). Section 35. Section 43, <i>from</i> and the word " Oudh " <i>to the end</i> . Sections 48, 50 and 56.
1891	II	Amending the Indian Christian Marriage Act, 1872.	Section 1, sub-section (4). Section 4, sub-section (2).
"	VI	Amending certain Acts respecting Indian Merchant Shipping.	Section 12.

* The entry relating to the Criminal Procedure Code (1882). Amendment Act, 1891, was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

Part I.—Acts of the Governor-General in Council—concl'd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1891	VII	Amending Act X of 1841.	Section 1. In section 5, <i>the words</i> the words " or the East India Company " are hereby repealed, and. Section 6, sub-section (1) In section 8, <i>the words</i> the words " is- sued under the Company's seal and " are hereby repealed, and.

Part II.—Acts of the Lieutenant-Governor of Bengal in Council.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1866	I	Amending Bengal Regu- lation VI of 1819 (Ferries).	The whole Act, so far as it applies to Assam.
"	V	Hackney Carriages ...	The whole Act, so far as it applies to Assam.
1867	II	Gambling ...	The whole Act, so far as it applies to Assam.
1875	V	Bengal Survey Act, 1875...	The whole Act, so far as it applies to Assam.

Part III.—Regulations of the Bengal Code.

1	2	3	4
Year	No.	Subject or title.	Extent of repeal.
1793	XIX	Title to Non-bādshāhi Lā- khirāj Grants.	In section 4. <i>the word</i> and figures and XXI.
"	XXXVIII	Loans by Civil Servants ...	The title, <i>from</i> and for re-enacting <i>to the end</i> . Section 1, <i>from</i> From a regard <i>to re- mained in force</i> .
1794	III	Revenue arrears ...	In the title, <i>the words</i> for exempting proprietors of land (with certain ex- ceptions) from being confined for arrears of revenue; and <i>and the words</i> and for expediting the trial of cau- relating to the public revenue of rents of individuals.

**Act XII
of
1891.**

Part III.—Regulations of the Bengal Code—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1795	I	Benares Permanent Settlement.	The title, <i>from</i> and for extending to 1793.
"	XV	Referring cases to Raja of Benares.	The title, <i>from</i> for extending to section X; and.
"	XXVII	Benares Permanent Settlement.	The title, <i>from</i> and for continuing to functions.
1799	I	Trade on Sylhet Frontier...	So much as has not been repealed.
"	V	Wills and Intestacies ...	In the title, <i>the words</i> and City.
1800	VIII	Registers of estates ...	The title, <i>from</i> preparing to prescribed.
1801	I	Division of joint estates ...	The title, <i>from</i> to explain and amend part to such sales, <i>from</i> contained in Regulation XXV, 1793, to Regulation XXVI, 1795, and <i>from</i> and to fix to the end. In section 8, <i>the words and figures</i> by clause First of Section XXIX, Regulation VII, 1799, or any other Regulation. In section 14, <i>the words and figures from</i> The rules contained in to affected by this Regulation, <i>the words</i> It is further hereby declared that, and <i>the words and figures from</i> This declaration to portions thereof.
1804	X	State-offences. ...	In section 2, <i>the words</i> declared to be. In section 3, <i>the words</i> It is hereby further declared that.
1805	XII	Settlement, Cuttack ...	In section 30, <i>the words and figures from</i> The rules to this Regulation, <i>the words</i> Provided however that, <i>the words and figures</i> under section IV, Regulation XXIV, 1793, and <i>the word</i> likewise.
1806	XI	Assistance to marching troops and to travellers.	The title, <i>from</i> and for extending to the end. Section 1, <i>from</i> and whereas it is further necessary to section XII, Regulation I, 1804. In section 8, <i>the words and figures</i> (under the rules prescribed by Regulation V, 1804).

Part III.—Regulations of the Bengal Code—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1812	XVIII	Leases ; Apportionment of Assessment on partition.	In section 3, clause <i>Second</i> , the words <i>and figures</i> and section VII, Regulation XXVII, 1795.
"	XXII	Territories bordering on Bandelkhand.	The title, <i>from</i> and for annexing to Calenger. Section 1. In section 2, the words Ditto of Rajah Kisseree Sing, the Rajah of Jeytpore, the words Ditto of Chobey Salligram, Jaghiredar of Cushbah Poorwah, etc., and the words Ditto of Pursram Bahadur, Jaghiredar of Khuddee, etc. Sections 3 and 4.
1816	V	Kánungos	The whole Regulation, so far as it applies to Assam.
1817	XII	Patwaris	In section 32, the words reporting, however, the amount for the information of the Governor-General in Council and the words when confirmed by Government. The whole Regulation, so far as it applies to Assam.
"	XX	Police	The title, <i>from</i> for modifying to the end. In the heading prefixed to section 30, the word badges and the words and insane persons. Forms Nos. 1, 4, 5, 7, 9 to 12 and 15 to 21 in the Appendix.
1819	I	Kánungos and Patwàris ...	The title, <i>from</i> for replacing to Gorakhpur. Section 4, clause <i>Fifth</i> , <i>from</i> anything to the end. The whole Regulation, so far as it applies to Assam.
"	II	Resumption of revenue-free lands.	In section 4, the words and figures and Regulations XLI and XLII of 1795, Regulations XXXI and XXXVI of 1803, Regulation VIII, and the words and figures <i>from</i> nor to alter to the end.

**Act XII
of
1891.**

Part III.—Regulations of the Bengal Code—contd.

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1819	II. —contd.	Resumption of revenue-free lands— <i>contd.</i>	In section 12, <i>the figures XXVI.</i> Section 29.
"	VIII	Patni Taluqs ...	The title, <i>from</i> and to explain <i>to the end.</i> The preamble, <i>from</i> It has been likewise deemed advisable <i>to defaulters.</i>
1821	IV	Powers of Collectors and Magistrates.	The title, <i>from</i> for authorising a Collector <i>to Also.</i>
1822	VII	Settlement, Cuttack, etc ...	The title, <i>from</i> for continuing <i>to five years.</i>
"	XI	Non-liability of Government for errors of Court, etc.	The title, <i>from</i> for modifying <i>to arrears of revenue.</i>
1823	VI	Indigo-contracts ...	The preamble, <i>from</i> Under the rules <i>to drawing up the agreement.</i> In section 3, clause <i>Fourth</i> , the words or other officer. In section 3, clause <i>Fifth</i> , the words or other tribunal trying the case. In section 3, clauses <i>Sixth</i> , <i>Seventh</i> and <i>Ninth</i> , the words or other officer trying the case. In section 3, clause <i>Ninth</i> , the words or other person trying the case. The whole Regulation, so far as it applies to Assam.
1825	IX	Defaulting malguzars ...	The preamble, <i>from</i> and whereas the rules <i>to sanctioned by Government.</i> In section 2, clause <i>First</i> , the words and figures and Regulations II and XXII, 1795. In section 3, the words and Benares. Section 8, <i>from</i> Section XI, Regulation XXXI, 1803, <i>to Conquered Provinces.</i> Section 9.

Part III.—Regulations of the Bengal Code—concl'd.

**Act XII
of
1891.**

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1825	XIII	Settlement of resumed Lakhiraj land.	In section 2, <i>the figures and words</i> IV, 1808, Regulations II and. In section 4, <i>the words and figures</i> or the second clause of section VIII, Regulation XLI, 1795, in the province of Benares. In section 5. <i>the figures and word</i> XLII, 1795, and XXXVI, 1803.
1830	V	Indigo-contracts	The title <i>from</i> for amending <i>to</i> contracts. The preamble, <i>down to</i> indigo crops; and. The whole Regulation, so far as it applies to Assam.
1831	VI	Sadr Adalat	So much as has not been repealed.
"	XI	Police-powers of Tahsil-dars.	The preamble, <i>from</i> Whereas by Regulation IV, 1821, <i>to</i> Magistrates and <i>and from</i> and whereas it is expedient <i>to</i> police-officers.

Act XII
of
1891.

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Part I.—Acts of the Governor-General in Council.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1835	XIX	Assistant to Agent for Sardars, Dekkhan.	<i>Add the following section:—</i> 2. The provisions of the Code of Civil Procedure relating to appeals to a High Court from decrees passed in appeal shall apply, so far as may be, to appeals to the Governor in Council under this Act.
1839	VII	Tahsildars, Madras ...	In section 6, <i>for</i> the three last preceding sections <i>read</i> sections 3 and 5.
1846	I	Pleaders	In section 7. <i>for</i> the sections of Regulations <i>read</i> the section of the Regulation.
1850	XIX	Binding Apprentices ...	In section 11, <i>for</i> section VIII <i>read</i> section 9. In section 20, <i>for</i> and, <i>where</i> the word <i>occurs before</i> administrators, <i>read</i> or.
1851	XII	Land revenue, Madras Town.	In the preamble and section 1, <i>for</i> within the limits of the Town of Madras as defined in section XII, Regulation II of 1802 of the Madras Code, <i>read</i> within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.
*
1856	XX	Chaukidars	In section 38 (as amended by Act XXII of 1871, section 3), <i>for</i> Commissioners of Circuit <i>read</i> Commissioner.
1857	XXV	Forfeiture of property ...	In section 2, <i>for</i> by this Act, or Act XI of 1857, or Act XIV of 1857, or Act XVI of 1857, <i>read</i> by the Indian Penal Code, section 121 or section 122, or the Indian Articles of War, Article 24.

* Repealed by the Prisons Act, 1894 (IX of 1894), s. 2 and Schedule.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title	Amendment.
1858	XXXVII.	Nawáb of the Carnatic ...	<p><i>For the list of names in Schedule A, read the following :—</i></p> <ol style="list-style-type: none"> 1. Her Highness Nawáb Khair-un-Nissa Begam. 2. Nawáb Ahmad-un-Nissa Begam. 3. Nawáb Qadiria Begam. 4. Rahim-un-Nissa Begam. 5. Ammak-ul-Ali Aliya-un-Nissa Begam.
1859	I	Merchant Seamen ...	<p>In section 62, for Act XX of 1841 (<i>for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons</i>) read the Succession Certificate Act, 1889.</p> <p>In section 115, for sections XXI and XXII of this Act read Chapter IV of the Indian Merchant Shipping Act, 1883, and section 22 of this Act.</p>
1860	XXVIII	Boundary-marks, Madras...	In section 4, <i>for the words and figures from in the same manner to the end, read in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.</i>
„	XLV	Indian Penal Code ...	In section 307, Illustration (c), <i>after of insert the first paragraph of.</i>
1863	XX	Religious Endowments ...	In section 3, <i>for section 1 read the preamble to this Act.</i>
1864	III	Foreigners	In section 24, <i>for the words and figures from according to the end, read be recovered in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.</i>
1865	X	Indian Succession Act, 1865.	In section 242, <i>after is insert or are.</i>
1867	III	Gambling	In the preamble, <i>after Fort William insert and.</i>

**Act XII
of
1891.**

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1867	III — <i>contd.</i>	Gambling— <i>contd.</i> ...	In section 2, <i>for</i> sections 13, 17 and 18 <i>read</i> sections 13 and 17.
"	XXIII	Murderous Outrages, Punjab.	In section 10, <i>for</i> the Punjab Chief Court Act, 1866, <i>read</i> in any other enactment for the time being in force.
"	XXV	Printing Presses and Books	In section 3, <i>before</i> of the publisher <i>insert</i> the name.
1868	V	Commissioner in Sindh ...	In the schedule, <i>for</i> Act VII of 1854 (for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them) <i>read</i> The Foreign Jurisdiction and Extradition Act, 1879; <i>and for</i> Act VII of 1865 (to give effect to rules for the management and preservation of Government forests) <i>read</i> The Indian Forests Act, 1878.
1869	V	Indian Articles of War *
"	XX	Indian Volunteers Act, 1869.	In the heading to Article 170, <i>for</i> "committed" <i>read</i> "of which any person is accused."
"	XX	Indian Volunteers Act, 1869.	In section 22, <i>for the words from</i> if for offences committed outside <i>to the end</i> , <i>read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
1870	VII	Court-fees Act, 1870 ...	<i>For</i> section 34 <i>read the following:—</i> 34 (1) The Local Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

* The entry relating to Part I, cl. (c), of the Indian Articles of War (Act V of 1869) is virtually repealed by s. 2 of the Indian Articles of War Amendment Act, 1894 (XII 1894) as the whole of that clause was repealed by the section referred to.

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1870	VII —contd.	Court Fees Act, 1870— <i>contd.</i>	<p>(2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.</p> <p>(3) Any person appointed who sells stamps, who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.</p> <p>In Schedule I, Article 2, for Act No. XIV of 1859 (to provide for the limitation of suits), section 15, read the Specific Relief Act, 1877. section 9.</p> <p>In Schedule II, Article 4, for Bombay Act No. V of 1861 (to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession or to restore possession to any party dispossessed otherwise than by course of law) read the Mamlatdars' Courts Act, 1876.</p>
„	XXIV	Oudh Taluqdars' Relief Act.	In section 12, for the words section three, in the second place in which they occur, read section 4.
•	•	•	•
„	XXVII	Amending the Indian Penal Code.	In section 13, for the said sections 124A and 225A read sections 124A, 225A and 225B.
†	•	•	•
1872	IV	Punjab Laws Act, 1872 ...	In section 12 (as amended by Act XII of 1878, section 2), for the Punjab Tenancy Act, 1868, section 34, read the Punjab Tenancy Act, 1887, section 53.

* Rep. by the Prisons Act, 1894 (XI of 1894).

† Rep. by the Prisons Act III of 1900, sch. VI.

Act XII
of
1891.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1872	IV — <i>contd.</i>	Punjab Laws Act, 1872 — <i>contd.</i>	In section 50 (as amended by Act XV of 1875, section 3), <i>for</i> sections forty-three to forty-nine <i>read</i> sections 43 to 48.
"	V	Jurisdiction over Sindh ...	In section 2 (added by Act XX of 1872), <i>for</i> the Administrator-General's Act, 1867, <i>read</i> the Administrator-General's Act, 1874.
"	IX	Indian Contract Act, 1872.	In section 25, clause (1), <i>for</i> assurances <i>read</i> documents. In section 43, first paragraph, <i>for</i> one <i>read</i> one or more. In section 63, Illustration (e), <i>for</i> compensation <i>read</i> composition.
"	XV	Indian Christian Marriage Act, 1872.	In section 4, <i>after</i> is <i>insert</i> or are. In Schedule III, <i>for</i> (See section 28) <i>read</i> (See sections 28 and 31).
1873	VIII	Northern India Canal and Drainage Act, 1873.	In section 75, clause (3), <i>after</i> whom <i>insert</i> and.
1874	II	Administrator-General's Act, 1874.	In section 15, <i>after</i> hereafter <i>insert</i> to.
"	IX	European Vagrancy Act, 1874.	In section 26, <i>for the words from</i> if for offences committed outside <i>to</i> time being <i>read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
"	XIV	Scheduled Districts Act, 1874.	<i>After</i> section 5 <i>insert the following section :—</i> 5A. In declaring an enactment in force in a scheduled district or part thereof under section 3 of this Act, or in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the Local Government, with the previous sanction of the Governor-General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as that Government thinks fit.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1874	XIV — <i>contd.</i>	Scheduled Districts Act, 1874— <i>contd.</i>	In the first schedule, Part I, No. II, <i>for</i> (7) The Konda Muttā of Belgām <i>read</i> (7) The Konda Muttā of Merangi. In the first schedule, Part III, No. I. <i>for</i> Divisions <i>read</i> Districts.
"	XV	Laws Local Extent Act. 1871.	In the second schedule, Part (a), in the entry relating to Madras Regulation II of 1806. <i>for</i> (parts of ss. 1 and 7) <i>read</i> (section 7, clause second). • • In the sixth schedule, Part I, No. II, <i>for</i> (7) The Konda Muttā of Belgām <i>read</i> (7) The Konda Muttā of Merangi. In the sixth schedule, Part III, No. I, <i>for</i> Divisions <i>read</i> Districts.
1876	X	Bombay Revenue Jurisdic- tion Act, 1876.	In section 1, clause (b), <i>for</i> Act XV of 1871 <i>read</i> Act XXI of 1881.
"	XIII	Indian Merchant Seamen's Act, 1876.	In section 8, last paragraph. <i>for</i> to im- prisonment <i>read</i> with imprisonment.
"	XVII	Oudh Land-revenue Act, 1876.	In section 105, <i>for</i> field <i>read</i> fields.
"	XVIII	Oudh Laws Act, 1876 ...	In section 39, clause (f), <i>for</i> Oudh Reve- nue Act <i>read</i> Oudh Land-revenue Act, 1876.
1877	III	Indian Registration Act, 1877.	To section 1 <i>add</i> the following :— The Local Government may, with the previous sanction of the Governor- General in Council, cancel any order excluding districts or tracts of country from the operation of this Act. In section 83, <i>for the words from</i> if <i>for</i> offences committed outside <i>to the end</i> <i>read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.

Act XII
of
1891.

Part 1.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1877	III — <i>contd.</i>	Indian Registration Act, 1877— <i>contd.</i>	<p>After the third paragraph of section 89 insert the following :— Every Revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in Book No. I.</p> <p>In section 90, clause (c), <i>for</i> or filed <i>read</i> are filed.</p>
1878	I	Opium Act, 1878	In section 24, <i>for</i> Deputy Collector <i>read</i> Deputy Commissioner.
"	VII	Indian Forest Act, 1878 ...	In section 41, clause (e), <i>for</i> depôt <i>read</i> dépôts.
"	VIII	Sea-customs Act, 1878 ...	<p>In section 2, <i>for</i> the first schedule <i>read</i> Part I of the schedule.</p> <p>In the schedule appended to section 167— in the first column of the entry numbered 3, <i>for</i> No. 2 <i>read</i> No. 4, <i>and for</i> landing or shipment <i>read</i> shipment and landing ; <i>and</i> in the second column of the entry numbered 59, <i>for</i> 141 <i>read</i> 142.</p>
"	XVII	Northern India Ferries Act, 1878.	<p>In section 17, clause (c), <i>for</i> first <i>read</i> in the first instance, <i>and for the words and figures from</i> and then <i>to the end of the clause read</i> and shall then, at the discretion of the Local Government, —</p> <p>(i) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883. or</p> <p>(ii) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878,</p> <p>as the case may be ; and.</p>

Part I.—Acts of the Governor-General in Council—contd.

Act XII
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
*	.	.	.
1879	XVI	Transport of Salt Act, 1879.	In section 3, clause (a), <i>for</i> section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a rawnā granted under Madras Regulation I of 1805, section eleven, clause third, <i>read</i> Chapter V of Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the corresponding law for the time being in force in the territories administered by the Governor of Fort St. George ^{or} Council or the Governor of Bombay in Council, as the case may be.
"	XXI	Foreign Jurisdiction and Extradition Act, 1879.	In section 6, <i>for the first thirty-three words read</i> The Governor-General in Council may appoint any European British subject, either by name or by virtue of his office, to be a Justice of the Peace in or for any such country or place.
1880	VII	Indian Merchant Shipping Act, 1880.	In section 68, <i>for purposes read</i> purpose.
1881	V	Probate and Administration Act, 1881.	In section 59, <i>after is insert</i> or are.
			In section 83, <i>for proceeding read</i> proceedings.
"	XII	North-Western Provinces Rent Act, 1881.	In section 94, <i>for</i> of village-expenses <i>read</i> for village-expenses, <i>and for</i> arrears or share <i>read</i> arrears, share, expenses or dues.
"	XVIII	Central Provinces Land-revenue Act, 1881.	In section 33, <i>for</i> the first five grades <i>read</i> the last five classes; <i>for</i> the Central Provinces Courts Act, 1865, <i>read</i> the Central Provinces Civil Courts Act, 1885; <i>and for</i> sections twelve, nineteen and twenty <i>read</i> section 7.

* The entry relating to the Indian Stamp Act, 1879 (I of 1879), was repealed by the Indian Stamp Act, 1899 (II of 1899).

REPEALING AND AMENDING ACT.

Act XII
of
1891.

Part I.—Acts of the Governor-General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1881	XVIII — <i>contd.</i>	Central Provinces Land-revenue Act, 1881— <i>contd.</i>	In section 34, <i>for</i> the Central Provinces Courts Act, 1865, sections twelve, nineteen and twenty, <i>read</i> the Central Provinces Civil Courts Act, 1885, section 16 and section 17, sub-section (1), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (1). In section 35, <i>for</i> the first four grades, <i>read</i> the last four classes.
*
†
1882	V	Indian Easements Act, 1882.	In section 11, <i>for</i> right <i>read</i> a right.
"	VI	Indian Companies Act, 1882.	In section 66, <i>after</i> the word cheque, <i>where</i> it first occurs, insert or. In section 88, <i>after</i> dates insert of. In section 127, <i>for</i> prove <i>read</i> proof. In section 144, clause (f), <i>after</i> the word bill, <i>in</i> the last place in which it occurs, insert hundi.
‡
"	XIV	Code of Civil Procedure ...	In section 6, clause (d), <i>for</i> Maulmain, Akyab or Bassein <i>read</i> or Maulmain. In section 266, clause (i), <i>for</i> Native <i>read</i> Indian. In section 484, <i>for</i> the sum <i>read</i> the same. In section 568, clause (b), <i>for</i> for <i>read</i> or.
1883	V	Indian Merchant Shipping Act, 1883.	In section 6, sub-section (3), <i>for</i> to simple imprisonment <i>read</i> with simple imprisonment

* The entry relating to the Lower Burma Forest Act, 1881, was repealed by the Burma Laws Act, 1898 (XIII of 1898), printed Burma Code, Ed. 1899.

† The entry relating to the Excise Act, 1881 (XXII of 1881), was repealed by the Excise Act, 1896 (XII of 1896), s. 2 and Schedule.

‡ The entry relating to the Code of Criminal Procedure, 1882 (Act X of 1882), was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

Part I.—Acts of the Governor-General in Council—contd.

Act **XI**
of
1891.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1883	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	In sections 36 and 37, <i>for</i> Government Civil Pension and Leave Codes, <i>wherever those words occur, read</i> Civil Service Regulations.
"	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	In sections 37 and 38, <i>for</i> Government Civil Pension and Leave Codes <i>read</i> Civil Service Regulations
"	XX	Punjab District Boards Act, 1883.	In sections 28 and 29, <i>for</i> Government Civil Pension and Leave Codes, <i>wherever those words occur, read</i> Civil Service Regulations.
1884	VI	Inland Steam-vessels Act, 1881.	In section 56 <i>for</i> to simple imprisonment <i>read</i> with simple imprisonment.
*	.	.	.
"	XXIII	Dekkhan Agriculturists' Relief Act, 1886.	In section 10, sub-section (3), <i>for</i> the same section <i>read</i> section 58.
1887	XVI	Punjab Tenancy Act, 1887.	In section 45, sub-section (2). <i>before</i> year <i>insert</i> agricultural.
1888	III	Police Act, 1888	In section 2, sub-section (1), <i>for</i> the Bombay District Police Act, 1867, <i>read</i> or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council.
"	VII	Civil Procedure Code Amendment Act, 1888.	In section 49, sub-section (2) <i>for</i> the same section <i>read</i> section 562. In section 52, sub-section (2), <i>for</i> the same section <i>read</i> section 566.
1889	V	Coroner of Madras	In section 4, sub-section (2) <i>for</i> that Code <i>read</i> the Code of Criminal Procedure, 1882.
†	.	.	.

* The entry relating to the Lower Burma Municipal Act, 1884 (XVII of 1884), was repealed by the Burma Laws Act, 1898 (XIII of 1898), and that relating to the Petroleum Act XII of 1886 by Schedule II of Act VIII of 1899.

† The entry relating to the Lower Burma Courts Act, 1889 (XI of 1889), was repealed by the second Schedule to Act VI of 1900.

Act XII
of
1891.

Part I.—Acts of the Governor-General in Council—concl'd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1889	XIII	Cantonments Act, 1889 ...	In section 19, <i>for</i> shall not be imposed under section 17 of this Act in the cantonment, <i>read</i> shall not be leviable in the cantonment in pursuance of a notification under section 17 of this Act.
„	XVIII	Central Provinces Municipal Act, 1889.	In section 29, clause (f), <i>for</i> used <i>read</i> use.
1890	III	Amending the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884.	In section 4, sub-section (2), <i>for</i> the same section <i>read</i> section 11 of the said Act. In section 17, sub-section (2), <i>for</i> the same section <i>read</i> section 13 of the said Act.
1891	VII	Amending Act X of 1841...	In section 6, sub-section (2) <i>for</i> the same section <i>read</i> section 17 of the said Act.

Part II.—Regulations of the Bengal Code.

1	2	3	4
Year.	No.	Subject.	Amendment.
1793	XI	Inheritance	In section 3, <i>for</i> that section <i>read</i> section 2, <i>and for</i> Regulation XXV, 1793, <i>read</i> the Estates' Partition Act, 1876.
1817	XII	Patwaris	In section 31, <i>for</i> Boards are <i>read</i> Board is. <i>For section 35 read the following:—</i> 35. (1) Any person aggrieved by a decision or order of a Commissioner from decision or order under section 20. Appeal to Collector under section 20 of this Regulation may appeal within six months from the date thereof to the Commissioner of the Division (2) The Commissioner may reverse or alter any such decision or order in appeal.

Part II.—Regulations of the Bengal Code—contd.

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1	2	3	4
Year.	No.	Subject.	Amendment.
1817	XX	Police	In the heading prefixed to section 29 for Commercial, Salt and Opium Departments read Opium Department, and for those Departments read that Department. In section 29, clause <i>Twelfth</i> , for Section XXXI, Regulation XIII, 1816, read Act XIII of 1857, section 21.
1818	III	State Prisoners	In section 9, after situated insert and.
1819	II	Resumption of Revenue-free lands.	In section 6, clause <i>First</i> , for the words from in the Persian and Bengal languages to Conquered Provinces read in the vernacular of the district. In section 12, after belong insert he. In section 26, clause <i>Second</i> , for a appeal read an appeal.
1822	III	Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.	(a) In section 5, clause <i>First</i> , for the Governor-General in Council, by an order in Council, and for the Governor-General in Council similarly, (b) in section 5, clause <i>First</i> , first proviso, clause <i>Second</i> and clause <i>Third</i> , for Government, and (c) in section 5, clauses <i>Fourth</i> and <i>Fifth</i> , for the Governor-General in Council, read the Lieutenant-Governor. In section 5, clause <i>First</i> , first proviso, before Collector insert Commissioner or. In section 5, clause <i>First</i> , third proviso, for formally confirmed read made or confirmed in accordance with rules sanctioned.
1823	VI	Indigo-contracts	In section 6, for a investigation read an investigation.
1825	XIII	Settlement of resumed lakhiraj land.	In section 4, for the Regulations read the Regulation. In section 5, for Regulations read Regulation.

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of
1891.

ACT XIII OF 1891.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1891.

An Act to amend the Inland Steam-vessels Act, 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884 ;
It is hereby enacted as follows :—

Substitution of new
Chapter for Chapter III,
Act VI, 1884.

1. For Chapter III of the said Act the following shall be substituted, namely :—

“ CHAPTER III.

“ MASTERS (INCLUDING SERANGS) AND ENGINEERS (INCLUDING ENGINE-DRIVERS) OF INLAND STEAM-VESSELS.

“ 22. The Local Government may, from time to time, appoint † persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or serangs, or as engineers or engine-drivers, of inland steam-vessels.

“ 23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class master, second-class master or serang, as the case may be, of an inland steam-vessel.

Every certificate granted under this section shall be in the prescribed form.

“ 24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, of an inland steam-vessel.

“ (2) Every certificate granted under this section shall be in the prescribed form.

* Short title, “ The Inland Steam-vessels Act (1884) Amendment Act, 1891.” the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1891, Part V, p. 15; for Report of the Select Committee, see *ibid.*, p. 113; and for Proceedings in Council, see *ibid.*, Part VI, pp. 6, 13 and 112.

As being part of the Inland Steam-vessels Act, 1884 (VI of 1884), it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

† As to appointments made in exercise of the power conferred by this provision, footnote on p. 1086, Vol. “

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of

" 25. Before granting a certificate under either of the two last foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require a re-examination of the applicant or a further inquiry into his testimonials and character.

" 25A. (1) The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer, of an inland steam-vessel before the first day of April, 1890, a certificate of service to the effect that he may act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, of an inland steam-vessel.

" (2). A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

" 26. Every certificate of competency or service granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

" 27. Whenever a master or serang, or an engineer or engine-driver, proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

" 28. (1) An inland steam-vessel having engines of eighty nominal horse-power or upwards shall not proceed on any voyage unless she has—

- (a) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869 and
- (b) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.*

* Now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these have been repealed.

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"(2) An inland steam-vessel having engines of thirty nominal horse-power or upwards but of less than eighty nominal horse-power shall not proceed on any voyage unless she has—

- (a) as her master a person possessing a second-class master's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1), and
- (b) as her engineer a person possessing a first-class engine-driver's certificate granted under this Act or an engine-driver's certificate granted under the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1) :

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and a first-class engine-driver's certificate granted under this Act, or, in substitution for either of such certificates, as the case may be, a master's certificate or an engineer's certificate of the higher grade of the nature referred to in sub-section (1).

"(3) An inland steam-vessel having engines of less than thirty nominal horse-power shall not proceed on any voyage unless she has—

- (a) as her master a person possessing a serang's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1) or sub-section (2), and
- (b) as her engineer a person possessing a second-class engine-driver's certificate granted under this Act or an engine-driver's certificate granted under the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1) or sub-section (2) :

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a serang's certificate and a second-class engine-driver's certificate granted under this Act, or, in substitution for either of such certificates, as the case may be, a master's certificate or an engineer's or engine-driver's certificate of the higher grade of the nature referred to in sub-section (1) or sub-section (2).

"(4) Notwithstanding anything in sub-section (1), sub-section (2) or sub-section (3), the Local Government may, by general or special order, direct that a person possessing a master's certificate granted under Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,* or possessing an engineer's certificate granted under the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1889, or to which the

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed.

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provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, * shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses, in the case of a master, such a master's or serang's certificate granted under this Act as qualifies him under this section to act as master of the vessel, or, in the case of an engineer, such an engineer's or engine-driver's certificate granted under this Act as qualifies him under this section to act as engineer of the vessel :

“ Provided that, for the purposes of this sub-section, the Local Government may, in its discretion, grant without examination a master's or serang's or an engineer's or engine-driver's certificate of competency under this Act, and that a certificate of competency so granted without examination shall have the same effect as a certificate of competency granted under this Act after examination.†

Power for Local Government to make rules as to grant of certificates of competency and certificates of service.

“ 29. (1) The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules †—

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters or serangs, or as engineers or engine-drivers, under this Act ;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, serangs' certificates, engineers' certificates, first-class engine-drivers' certificates, and second-class engine-drivers' certificates respectively ;
- (c) fix the fees to be paid by all applicants for examination ; and
- (d) prescribe the form in which certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

“ (2) The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

- (a) fix the fees to be paid for such certificates, and
- (b) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.”

Substitution of new clause for clause (c), section 43, Act VI, 1884.

2. For clause (c) of section 43 of the said Act the following shall be substituted, namely:—

“ (c) if, in the case of a second-class master or serang, or of an engine-driver, the master or serang, or the engine-driver, is or has

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed.

† For notifications issued under the powers conferred under the proviso to s. 28 and under s. 29, see foot-notes, on p. 1069, Vol. II.

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become, in the opinion of the Local Government, unfit to act as a second-class master or serang, or as an engine-driver, as the case may be ;”.

Repeal of sections 9, 10 and 11, Act III, 1890.

3. Sections 9, 10 and 11 of Act III of 1890 (*an Act to amend Acts VI and VII of 1884*) are hereby repealed.

ACT XVI OF 1891.*

RECEIVED THE G.-G.'S ASSENT ON THE 14TH MAY 1891.

An Act to declare certain Courts in British India to be Colonial Courts of Admiralty.

WHEREAS it is provided by the Colonial Courts of Admiralty Act, 1890,† that the Legislature of a British possession may by any colonial law declare any Court of unlimited civil jurisdiction in that possession to be a Colonial Court of Admiralty ;

And whereas it is expedient, in pursuance of that provision, to declare certain Courts in British India to be Colonial Courts of Admiralty ;

It is hereby enacted as follows :—

Title and commencement. 1. (1) This Act may be called the Colonial Courts of Admiralty (India) Act, 1891 ; and

(2) It shall come into effect—

(a) if Her Majesty's pleasure thereon has been signified, by notification in the Gazette of India, on or before the first day of July, 1891, then on that day,‡ or

(b) if Her Majesty's pleasure thereon has not been so signified on or before that day, then on the day on which Her Majesty's pleasure shall be signified by such a notification as aforesaid.

2. The following Courts of unlimited civil jurisdiction are hereby declared to be Colonial Courts of Admiralty, namely :—

Appointment of Colonial Courts of Admiralty.

- (1) the High Court of Judicature at Fort William in Bengal,
- (2) the High Court of Judicature at Madras,
- (3) the High Court of Judicature at Bombay,
- (4) the Chief Court of Lower Burma,§

* For Statement of Objects and Reasons, see *Gazette of India*, 1891, Part V, p. 140 ; for Proceedings in Council, see *ibid.*, 1891, Part VI, p. 116.

† See *Gazette of India*, 1890, Part I, p. 654.

‡ For notification publishing Her Majesty's Assent to this Act, see *Gazette of India*, 1891, Part I, p. 371.

§ The words “the Chief Court of Lower Burma” were substituted for the words “the Court of the Recorder of Rangoon” by the first schedule to Act VI of 1900.

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of
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(5) the Court of the Resident at Aden, and

(6) the District Court of Karachi.

3. The expressions "Court having Admiralty jurisdiction" and "Admiralty Court" and the expression "Admiralty or Vice-Admiralty cause," and other expressions referring to Admiralty or Vice-Admiralty Courts or causes, shall, wherever any such expression occurs in any enactment of the Governor-General in Council, or of a Governor in Council or Lieutenant-Governor in Council, be deemed to include a Colonial Court of Admiralty and a Colonial Court of Admiralty cause, and to refer to a Colonial Court of Admiralty or a Colonial Court of Admiralty cause, respectively.

Construction of Indian Acts referring to Admiralty and Vice-Admiralty Courts.

4. Court-fees in suits instituted in the Colonial Court of Admiralty at Rangoon, Aden or Karachi shall, unless the jurisdiction of the Court is to be exercised in any matter relating to the slave-trade, be leviable in accordance with the provisions of Chapter III of the Court-fees Act, 1870.

Court fees in suits in the Colonial Courts of Admiralty at Rangoon, Aden and Karachi.

Repeal.

5. The enactments mentioned in the schedule are hereby repealed to the extent specified in the third column thereof.

THE SCHEDULE.

(See section 5.)

ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
II of 1864 ...	Justice at Aden ...	In the preamble the words and figures from and inclusive of "and whereas Her Majesty" down to and inclusive of "Statute 12 and 13 Vict., c. 84."

* The entry relating to the Lower Burma Courts Act, 1880 (XI of 1880) was repealed by the second schedule to Act VI of 1900.

Act XVII
of
1891.

ACT XVII OF 1891.*

RECEIVED THE G.-G.'S ASSENT ON THE 20TH AUGUST 1891.

An Act to amend the Indian Merchant Shipping Act, 1880.

WHEREAS it is expedient to amend and add to the provisions of the Indian Merchant Shipping Act, 1880 (hereinafter called the said Act), respecting unseaworthy and unsafe ships; It is hereby enacted as follows:—

Title and commencement. 1. (1) This Act may be called the Deck and Load Lines Act, 1891; and

(2) It shall come into force on the first day of September, 1891.

Addition to section 3, Act VII, 1880. 2. To section 3 of the said Act the following shall be added, namely:—

“The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the local official Gazette, exclude from, or bring again within, the operation of this Chapter or any part thereof, subject to such modifications thereof (if any) as may be specified in the notification, any Native craft not square-rigged.”

Addition to section 4, Act VII, 1880. 3. To section 4 of the said Act the following shall be added, namely:—

“‘Amidships’ means the middle of the length of the load water-line as measured from the fore side of the stem to the aft side of the stern-post.”

Substitution of new sections for sections 33 to 43, Act VII, 1880. 4. For sections 33 to 43, both inclusive, of the said Act the following sections shall be substituted, namely:—

“Deck and Load-lines.

“33. (1) Every British Indian ship shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

“ (2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

“ (3) The line shall be white or yellow on a dark ground, or black on a light ground.

“ 34. (1) The master of every British ship not being a coasting vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or, if that

Marking of load-lines in case of vessels which are not coasting vessels.

* For Statement of Objects and Reasons, see *Gazette of India*, 1890, Part V, p. 216; for Report of the Select Committee, see *ibid.*, 1891, Part V, p. 145; and for Proceedings in Council, see *ibid.*, 1890, Part VI, p. 145, and *ibid.*, 1891, Part VI, pp. 2 and 181.

is not practicable, as soon after as may be, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876,* as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(3) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

“ 35. (1) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement, in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

(2) A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and no shipping master shall proceed with the engagement of a crew for any such ship until this entry has been made.

(3) The master shall enter a copy of this statement in the official log-book (if any).

“ 36. (1) The master of every British ship which is a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before proceeding to sea from any port, mark outside upon each of her sides amidships or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876,* as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(3) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

* Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 1018, *see n*: the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), s. 438.

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“ 37. (1) The master of every such ship shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector or other principal officer of Customs of such port as the Local Government may, from time to time, appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(2) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Collector or other principal Officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(3) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

Modification of certain foregoing provisions.

“ 38. The foregoing provisions of this Chapter with respect to deck and load-lines are subject to the provisions of the two next following sections.

“ 39. (1) The position of the discs mentioned in sections 34 and 36 respectively shall be fixed in accordance with the tables framed by the Load-line Committee appointed in the United Kingdom before the passing of the Merchant Shipping Act, 1890,* subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876,† and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may, from time to time, with the previous approval of the Governor-General in Council, be sanctioned by the Local Government.

Position of disc and approval of, and certificate as to, position thereof.

(2) The Local Government shall from time to time appoint—

a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 2 of the Merchant Shipping Act, 1890,* and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

† Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 1018. See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), s. 438.

(b) an officer specially selected by the Local Government for the purpose, **Act XVII of 1891.**

to approve and certify on its behalf from time to time the position of any such disc as aforesaid, and any alteration thereof,

and may, with the previous sanction of the Governor-General in Council from time to time fix the fees to be taken in respect of any such approval or certificate.

(3) The Local Government may suspend or remove from office any surveyor or officer so appointed.

“40. (1) The Local Government, with the previous sanction of the Governor-General in Council, may from time to time make rules—
Rules.

(a) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Chapter are to have effect as if any such line were drawn through the centre of the disc ;

(b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise ;

(c) as to the mode of application for, and form of, certificates under this Chapter ; and

(d) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—

(i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and

(ii) modify the tables referred to in sub-section (1) of section 39.

(3) All rules intended to be made under this section shall previously be published in draft in such manner as may be prescribed by the Local Government, and shall not be formally promulgated for ninety days at the least after such publication, and all such rules shall, while in force, have effect as if enacted by this Act.

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" 41. Any master of a ship who neglects to cause his ship to be marked as by this Chapter required or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy,

shall be liable in respect of each such offence to a fine which may extend to one thousand rupees.

" 42. The master of any ship on which any of the marks or lines prescribed by or under this Chapter is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.

" 43. The provisions of this Chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and having such lines fixed, marked and certified in accordance with the provisions of the law for the time being there in force, or to ships registered in a British possession and having such lines fixed, marked and certified in accordance with the provisions of an enactment passed by the Legislature of that possession, with respect to which enactment such a declaration as is mentioned in section 3 of the Merchant Shipping Act, 1890, * has been made by an Order of Her Majesty in Council and is for the time being in force."

Addition to Act VII,
1880.

5. To the said Act the following section shall be added, namely :—

" 85. The provisions of this Act for the prevention of the overloading and improper loading of British ships shall apply to foreign ships also when in ports of British India, unless such foreign ships, if in ports of the United Kingdom, would be entitled to the benefit of an Order of Her Majesty in Council under section 4 of the Merchant Shipping Act, 1890. * "

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), ss. 444 and 445.

ACT XVIII OF 1891.*

Act XVIII
of
1891.

RECEIVED THE G.-G.'S ASSENT ON THE 1ST OCTOBER 1891.

An Act to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Bankers' Books Evidence Act, 1891.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "company" means† a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent.

2) "bank" and "banker" mean—

(a) any company carrying on the business of bankers,

(b) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided,

‡ (c) any post office savings bank or money order office :

(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank :

(4) "legal proceeding" means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration :

(5) "the Court" means the person or persons before whom a legal proceeding is held or taken :

(6) "Judge" means a Judge of a High Court :

* For Statement of Objects and Reasons, see *Gazette of India*, 1891, Part V, p. 24 ; for Report of the Select Committee, see *ibid.*, p. 189 ; and for Proceedings in Council, see *ibid.*, Part VI, pp. 15, 25, 117, 135 and 140.

The Act has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see *Gazette of India*, 1896, Part II, p. 1004. It was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, see *Calcutta Gazette*, 1892, Part I, p. 448.

† This definition of "company" was substituted by Act XII of 1900, s. 2.

‡ Cl. (c) was added by s. 2 of the Bankers' Books Evidence Act, 1893 (I of 1893).

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(7) "trial" means any hearing before the Court at which evidence is taken : and

(8) "certified copy" means a copy of any entry in the books of a bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

3. The Local Government may, from time to time, by notification in the official Gazette, extend the provisions of this Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash-book, a day-book or journal, and a ledger, and may in like manner rescind any such notification.

Power to extend provisions of Act.

4. Subject to the provisions of this Act, a certified copy of any entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

Mode of proof of entries in bankers' books.

5. No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

Case in which officer of bank not compellable to produce books.

6. (1) On the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

Inspection of books by order of Court or Judge.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct,

(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

7. (1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself.

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

ACT II OF 1892.*

RECEIVED THE G.-G.S. ASSENT ON THE 29TH JANUARY 1892.

An Act to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872.

WHEREAS provision is made in Part VI of the Indian Christian Marriage Act, 1872, for the solemnization of marriages between persons of whom both are Native Christians, but not of marriages between persons of whom one only is a Native Christian ;

And whereas persons licensed under section 9 of the said Act have in divers parts of British India, through ignorance of the law, permitted marriages to be solemnized in their presence under the said Part between persons of whom one is a Native Christian and the other is not a Native Christian ;

* Short title, "The Marriage Validation Act, 1892." See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1891, Part V, p. 142 ; for Report of the Select Committee, see *ibid.*, 1892, Part V, p. 5 ; for Proceedings in Council, see *ibid.*, 1891, Part VI, p. 117, and *ibid.*, 1892, Part VI, p. 11.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see First Schedule and s. 4, printed, *Burma Code*, Ed. 1899.

The Act has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, *Bengal Code*, Ed. 1889, see *Gazette of India*, 1895, Part I, p. 310.

**Act II
of
1892.**

And whereas it is expedient that such marriages, having been solemnized in good faith, should be validated ;

It is hereby enacted as follows :—

Commencement.

1. This Act shall come into force at once.

2. In this Act the expression “ Native Christian ” has the same meaning as in the Indian Christian Marriage Act, 1872.

Definition.

3. All marriages which have already been solemnized under Part VI of the Indian Christian Marriage Act, 1872, between persons of whom one only was a Native Christian, shall be as good and valid in law as if such marriages had been solemnized between persons of whom both were Native Christians :

Validation of irregular marriages.

Provided that nothing in this section shall apply to any marriage which has been judicially declared to be null and void, or to any case where either of the parties has, since the solemnization of such marriage and prior to the commencement of this Act, contracted a valid marriage.

4. Certificates of marriages which are declared by the last foregoing section to be good and valid in law, and register-books, and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the law for the time being in force, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been solemnized between persons of whom both were Native Christians.

Validation of records of irregular marriages.

5. References in this Act to the Indian Christian Marriage Act, 1872, shall, so far as may be requisite, be construed as applying also to the corresponding portions of the Indian Marriage Act, 1865.*

Application of Act to marriages under Act V of 1865.

6. If any person licensed under section 9 of the said Act to grant certificates of marriage between Native Christians shall at any time after the commencement of this Act solemnize or affect to solemnize any marriage under Part VI of the said Act or grant any such certificate as therein mentioned, knowing that one of the parties to such marriage or affected marriage was at the date of such solemnization not a Christian, he shall be liable to have his license cancelled, and in addition thereto he shall be deemed to have been guilty of an offence prohibited by section 73 of the said Act, and shall be punishable accordingly.

Penalty for solemnizing irregular marriages.

* Repealed (except as to Straits Settlements) by Act XV of 1872.

ACT VI OF 1892. *

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JULY 1892.

An Act to amend the Indian Limitation Act, 1877, and the Code of Civil Procedure.

WHEREAS it is expedient to amend the Indian Limitation Act, 1877, and the Code of Civil Procedure; It is hereby enacted as follows :—

1. After section 5 of the Indian Limitation Act, 1877, the following section shall be added, namely :—
Addition of new section after section 5, Act XV of 1877.

“ 5A. Whenever it is shown to the satisfaction of the Court that an appeal or an application for a review of judgment was presented after the expiration of the period of limitation prescribed for such appeal or application owing to the appellant or applicant having been misled by any order, or practice, or judgment of the High Court of the Presidency, Province, or District, such appeal or application, if otherwise in accordance with law, shall for all purposes be deemed by all Courts to have been presented within the period of limitation prescribed therefor.”
Limitation for certain appeals or applications for review of judgment.

2. To Chapter XXII of the Code of Civil Procedure the following section shall be added, namely :—
Addition of new section to Chapter XXII of Code of Civil Procedure.

“ 375A. Nothing in this Chapter shall apply to any application or other proceeding in any suit subsequent to the decree.”
Applications for execution of decrees not affected.

“ *Explanation.*—An application to the Appellate Court pending an appeal is not an application subsequent to the decree appealed from within the meaning of this section.”

* Short title, “ The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.” See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1892, Part V, p. 43; for Proceedings in Council, see *ibid.*, 1892, Part VI, pp. 31, 52 and 58.

This Act is in force in Upper Burma (except the Shan States) in so far as it amends Acts XV of 1877 and XIV of 1882, both of which Acts have been declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899; the Act has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, see *Gazette of India*, 1895, Part I, p. 310.

So far as it amends that Act, it is in force in the sub-division of Angul, as being part of the original Act XV of 1877.

**Act VIII
of
1892.**

Addition of new section
after section 582 of said
Code.

3. After section 582 of the said Code the following section shall be added, namely:—

If a memorandum of appeal or application for a review of judgment has been presented within the proper period of limitation, but is written upon paper insufficiently stamped and the insufficiency of the stamp was caused by a mistake on the part of the appellant or applicant as to the amount of the requisite stamp, the memorandum of appeal or application shall have the same effect and be as valid as if it had been properly stamped: Provided that such appeal or application shall be rejected, unless the appellant or applicant supplies the requisite stamp within a reasonable time after the discovery of the mistake, to be fixed by the Court."

Addition to section 647
of said Code.

4. To section 647 of the said Code the following shall be added, namely:—

"*Explanation.*—This section does not apply to applications for the execution of decrees, which are proceedings in suits."

5. The provisions of this Act shall apply to every appeal and review of judgment heard after the passing hereof, notwithstanding that the judgment appealed from or under review may have been passed, or the petition of appeal or application for review presented, before the passing of this Act.

ACT VIII OF 1892.*

RECEIVED THE G.-G.'S ASSENT ON THE 22ND OCTOBER 1892.

An Act to remove doubts as to the levy and collection of tolls upon the Lansdowne Bridge over the Indus at Sukkur in the Presidency of Bombay, and for other purposes.

WHEREAS by an Act passed by the Governor of Bombay in Council, intituled "An Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay," † the Act of the Governor-General in Council "for enabling Government to levy tolls on public roads and bridges" was repealed as far as it affected the Presidency of Bombay;

And whereas the bridge on the line of the North-Western Railway over the Indus at Sukkur in the said Presidency of Bombay, commonly known as "The Lansdowne Bridge," was made and is repaired at the expense of the Government of India;

* For Statement of Objects and Reasons, see *Gazette of India*, 1892, Part V, p. 67; for Proceedings in Council, see *ibid.*, 1892, Part VI, pp. 70 and 75.

† Printed, *Bombay Code*, Vol. II, Ed. 1896, p. 215.

And whereas, in consequence of such repeal as aforesaid, doubts have arisen whether or not there is any subsisting authority competent to impose and levy tolls for the use of the said bridge, and it is expedient to remove such doubts;

**Act VIII
of
1892.**

It is enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Lansdowne Bridge Act, 1892.

It extends to the whole of British India ; and

(3) It shall come into force at once.

Levy of tolls.

2. Notwithstanding the repeal of the lastly hereinbefore mentioned Act, the Governor-General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act, as he may think fit to be levied in respect of the said Lansdowne Bridge, and may place the collection of such tolls under the management of such persons as may appear to him proper : and all the provisions of the said last mentioned Act shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were herein re-enacted verbatim.

Validation of past levy of tolls.

3. All tolls heretofore levied or collected upon the said Lansdowne Bridge under the authority of the Governor-General in Council or of the Governor of Bombay in Council shall be deemed to have been duly levied and collected under the authority of the said Act as if the same had not been repealed.

4. Where any public road or bridge has or shall have been made and repaired at the expense of the Government of India and no other adequate provision shall have been made for the levy and collection of tolls thereon, the Governor-General in Council may, by notification in the Gazette of India, apply this Act to such road or bridge, and thereupon all the provisions of this Act shall apply to such road or bridge as if the same had been herein named in addition to the said Lansdowne Bridge.

Act X
of
1892.

ACT X OF 1892.*

RECEIVED THE G.-G.'S ASSENT ON THE 25TH OCTOBER 1892.

An Act to provide for the levy of a rate on private estates under the management of the Government to meet the cost of supervision and management.

WHEREAS it is expedient to provide for the levy of a rate on private estates under the management of the Government to cover the cost of all Government establishments in so far as they are employed in the supervision and management of such estates, other than establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by the Government in connection with such supervision and management; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Government Management of Private Estates Act, 1892.

(2) It extends to the whole of British India, inclusive of † British Baluchistan; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “Immoveable property” includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops or grass;

(2) “Gross income” includes all receipts of every kind in produce or cash, except money borrowed, recoveries of principal and the proceeds of sale of immoveable property or of moveable property properly classed as capital; and

(3) “Private estates under Government management” include—

(a) estates under the Court of Wards;

(b) encumbered estates under Government management;

* For Statement of Objects and Reasons, see *Gazette of India*, 1892, Part V, p. 14; for Report of the Select Committee, see *ibid.*, 1892, Part V, p. 69; for Proceedings in Council, see *ibid.*, 1892, Part VI, p. 73.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4, printed, Burma Code, Ed. 1899.

† The words “Upper Burma and” were repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule.

- (c) estates attached for default of payment of Government revenue ;
- (d) minors' estates placed under the guardianship of a revenue-officer of the Government by a Civil Court ;
- (e) estates managed by a Collector in pursuance of any order made under the Code of Civil Procedure ; and
- (f) all other estates made over to or taken under the management of a revenue-officer of the Government as such under any law for the time being in force or in virtue of any agreement.

Power to levy rate.

3. It shall be lawful for the Local Government *—

(1) to levy on all private estates under Government management a rate, not exceeding five per cent. on the gross income, calculated, as nearly as may be possible, to cover—

(a) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and

(b) all contingent expenditure incurred in consequence of such supervision or management ;

(2) from time to time to vary such rate ; and

(3) to reduce or remit such rate in any special case or cases as may be equitable :

Provided that, in deciding the amount of the rate to be levied under this Act on any particular estate or group of estates, the Local Government shall consider the expenditure incurred on special establishments for such estate or estates. •

4. In cases where an officer of the Government is employed to give legal advice or to audit accounts on behalf of any estate, the Local Government, if it considers the services rendered to be of a special nature, may, in its discretion, direct a special charge to be made against that estate on account of such services, irrespective of the rate leviable under the last foregoing section.

5. Nothing in this Act shall apply to the cost of establishments specially entertained or to expenditure of any description specially incurred in respect of any particular estate or estates.

* For instance of notification issued under the powers conferred by this section fixing a rate to be levied on any estate, see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 58.

**Act I
of
1893.**

6. All rates for general supervision or management levied by any Local Government before the commencement of this Act shall be deemed to have been levied under this Act.

Validation of levy of past rates.

7. The Local Government may make any rules* and issue any orders which may be necessary for carrying this Act into effect, and which are consistent therewith.

Power to make rules.

8. Where any Government establishment is employed in such supervision as aforesaid, the Local Government shall be the sole judge of the cost attributable to such employment, and its decision thereon shall not be questioned in any Court of Law or otherwise.

Exemption from jurisdiction of Courts.

9. Section 17 of the Court of Wards Act, 1879,† (passed by the Lieutenant-Governor of Bengal in Council), and so much of Act III of 1881‡ (also passed by the Lieutenant-Governor of Bengal in Council) as relates to section 17 of the said Court of Wards Act, 1879, are hereby repealed.

Repeal.

ACT I OF 1893. §

RECEIVED THE G.-G.'S ASSENT ON THE 20TH JANUARY 1893.

An Act to extend the provisions of the Bankers' Books Evidence Act, 1891, to the Books of Post Office Savings Banks and Money Order Offices.

WHEREAS it is expedient to extend the provisions of the Bankers' Books Evidence Act, 1891, to the books of the savings banks and money order offices of the Post Office ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Bankers' Books Evidence Act, 1893 ; and

(2) It shall come into force at once.

Addition to definition of "bank" and "banker" in section 2, sub-section (2) of Act XVIII of 1891,

2. After clause (b) of sub-section (2) of section 2 of the said Bankers' Books Evidence Act, 1891, the following clause shall be added namely :—

[Vide page 533, *supra*.]

* For instance of rules made under the powers conferred by this section see *North-Western Provinces and Oudh Gazette*, 1893, Part I, p. 533.

† Printed, Bengal Code, Vol. II, Ed. 1890, p. 430.

‡ Printed, Bengal Code, Vol. II, Ed. 1890, p. 604.

§ For Statement of Objects and Reasons, see *Gazette of India*, 1893, Part V, p. 15 ; for Proceedings in Council, see *ibid*, Part VI, pp. 12 and 27.

The Act has been extended to the Santhal Parganas, see *Gazette of India*, 1895,

ACT IV OF 1893.*

Act IV
of
1893.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH MARCH 1893.

An Act to amend the Law relating to Partition.

WHEREAS it is expedient to amend the law relating to partition; It is hereby enacted as follows :—

Title, extent, commencement and saving.

1. (1) This Act may be called the Partition Act,

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

(4) But nothing herein contained shall be deemed to affect any local law providing for the partition of immoveable property paying revenue to Government.

2. Whenever in any suit for partition in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein, or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property and distribution of the proceeds would be more beneficial for all the shareholders, the Court may, if it thinks fit, on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

3. (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale, any other shareholder applies for leave to buy at a valuation the share or shares of the party or parties asking for a sale, the Court shall order a valuation of the share or shares in such manner as it may think fit and offer to sell the same to such shareholder at the price so ascertained, and may give all necessary and proper directions in that behalf.

(2) If two or more shareholders severally apply for leave to buy as provided in sub-section (1), the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

* For Statement of Objects and Reasons, see *Gazette of India*, 1892, Part V, p. 46; for Report of the Select Committee, see *ibid*, 1893, Part V, p. 51; for Proceedings in Council, see *ibid*., 1893, Part VI, pp. 38 and 49.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4, printed Burma Code, Ed, 1899,

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1898.**

(3) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications.

4. (1) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder, and may give all necessary and proper directions in that behalf.

Partition suit by transferee of share in dwelling-house.

(2) If in any case described in sub-section (1) two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section.

5. In any suit for partition a request for sale may be made or an undertaking, or application for leave, to buy may be given or made on behalf of any party under disability by any person authorised to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request, undertaking or application unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability.

Representation of parties under disability.

6. (1) Every sale under section 2 shall be subject to a reserved bidding, and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time.

Reserved bidding and bidding by shareholders.

(2) On any such sale any of the shareholders shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to 'setting off' or accounting for the purchase-money or any part thereof instead of paying the same as to the Court may seem reasonable.

(3) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

7. Save as hereinbefore provided, when any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely :—

Procedure to be followed in case of sales.

(a) if the property be sold under a decree or order of the High Court of Calcutta, Madras or Bombay in the exercise of its original jurisdiction, or of the Court of the Recorder of Rangoon, the procedure of such Court in its original civil jurisdiction for the sale of property by the Registrar ;

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of
1893.**

(b) if the property be sold under a decree or order of any other Court, such procedure as the High Court may from time to time by rules prescribe in this behalf, and until such rules are made, the procedure prescribed in the Code of Civil Procedure in respect of sales in execution of decrees.

8. Any order for sale made by the Court under section 2, 3 or 4 shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure.

Orders for sale to be deemed decrees.

9. In any suit for partition the Court may, if it shall think fit, make a decree for a partition of part of the property to which the suit relates and a sale of the remainder under this Act.

Saving of power to order partly partition and partly sale.

10. This Act shall apply to suits instituted before the commencement thereof, in which no scheme for the partition of the property has been finally approved by the Court.

Application of Act to pending suits.

ACT VIII OF 1893.*

RECEIVED THE G.-G.'S ASSENT ON THE 26TH JUNE 1893.

An Act to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882.

WHEREAS it is expedient to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882 ; It is hereby enacted as follows :—

Title and commence-
ment. **1.** (1) This Act may be called the Indian Coinage and Paper Currency Act, 1893 ; and

(2) It shall come into force at once.

2. The enactments specified in the schedule hereto shall be repealed or modified to the extent and in the manner mentioned in the third column thereof, but no such repeal or modification shall affect anything already done or any right or obligation heretofore acquired or undergone under the said enactments, or any of them.

Repeal of existing enactments.

* For Statement of Objects and Reasons, see *Gazette of India*, 1893, Part V, p. 88 ; for Proceedings in Council, see *ibid.*, 1893, Part VI, pp. 105 to 185.

This Act is in force in Upper Burma (except the Shan States) in so far as it amends Acts XXIII of 1870 and XX of 1882, both of which Acts have been declared in force there by s 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899,

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THE SCHEDULE.

Number, Year and Short Title.	Sections.	Extent of Repeal or Modification.
Act XXIII of 1870 (the Indian Coinage Act, 1870).	19 to 26, both inclusive.	The whole to be repealed.
Act XX of 1882 (the Indian Paper Currency Act, 1882).	11	Clause (b), clause (d) and the proviso to be repealed.
	12	The word and letter "clause (b)" to be omitted.
	13	The words "to an extent to be specified in the order not exceeding one-fourth of the total amount of issues represented by coin and bullion as provided by this Act" to be omitted.
	14 & 15	The whole sections to be repealed.
	21	For the proviso to sub-section (1) the following shall be substituted:— " Provided that any coin or bullion so received and appropriated may be sold or exchanged for gold or silver coin of the Government of India of the like value, which shall be so appropriated and set apart instead of the coin or bullion sold or exchanged."
	28	Sub-section (2) to be repealed. Sub-section (1). clause (f) to be omitted. Sub-section (3) to be repealed.

ACT I OF 1894.

THE LAND ACQUISITION.

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ACT I OF 1894.*

RECEIVED THE G.-G.'S ASSENT ON THE 2ND FEBRUARY 1894.

An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Land Acquisition Act, 1894.

(2) It extends to the whole of British India ; and

(3) It shall come into force on the first day of March, 1894.

2. (1) The Land Acquisition Act, 1870, and section 74 of the Punjab Repeal. Courts Act, 1884, are hereby repealed.

(2) But all proceedings commenced, officers appointed or authorised, agreements published and rules made under the said Land Acquisition Act shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized, published and made under this Act.

(3) Any enactment or document referring to the said Land Acquisition Act or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(a) the expression “ land ” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :

* For Statement of Objects and Reasons, see *Gazette of India*, 1892, Part V, p. 32; for Report of the Select Committee, see *ibid.*, 1894, Part V, p. 23 ; for Proceedings in Council, see *ibid.*, 1894, pp. 19 and 24 to 42.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4, printed, Burma Code, Ed. 1899.

It has been declared, by notification under s. 3 of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Districts of Hazaribagh, Lohardaga (now the Ranchi District, see the *Calcutta Gazette*, 1899, Part I, p. 44) and Manbhum and in the Pargana of Dhalbhum and the Kolhan in the District of Singbhum, see *Gazette of India*, Part I, p. 490 ; in the District of Palamau, see *Gazette of India*, 1894, Part I, p. 639.

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- (b) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :
- (c) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government* to perform the functions of a Collector under this Act :
- (d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed † (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :
- (e) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent :
- (f) the expression "public purpose" includes the provision of village sites in districts in which the Local Government shall have declared by notification ‡ in the official Gazette that it is customary for the Government to make such provision : and
- (g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say) —
 - trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability ;
 - a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age ; and
 - the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

* For instance of such appointment, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxlv.

† For instance of such appointment, *see* Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 251; Bombay List of Local Rules and Orders, Vol. I, Ed. P. cxlv.

‡ For instance of such notifications, *see* Burma Laws List, Ed. 1897, p. 314.

Provided that—

- (i) no person shall be deemed “entitled to act” whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;
- (ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;
- (iii) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and
- (iv) no person “entitled to act” shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

ACQUISITION.

Preliminary Investigation.

4. (1) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Publication of preliminary notification and powers of officers thereupon.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,—

- to enter upon and survey and take levels of any land in such locality ;
- to dig or bore into the subsoil ;
- to do all other acts necessary to ascertain whether the land is adapted for such purpose ;
- to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;
- to mark such levels, boundaries and line by placing marks and cutting trenches ;

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and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Declaration of Intended Acquisition.

6. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders :

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be ; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same,

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned, (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866.*

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Enquiry into Measurements, Value and Claims, and Award by the Collector.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given

* See now the Indian Post Office Act, 1898 (VI of 1898).

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under section 9 to the measurements made under section 8, and into the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

- (i) the true area of the land ;
- (ii) the compensation which in his opinion should be allowed for the land ; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

(1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.

Matters to be considered and neglected.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

17. (1) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed

for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

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(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government, free from all encumbrances :

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24 ; and in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions here contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award ;

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(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

19. (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

Collector's statement to the Court.

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon ;

(b) the names of the persons whom he has reason to think interested in such land ;

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11 ; and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

20. The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

Service of notice.

(a) the applicant ;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Restriction on scope of proceedings.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Proceedings to be in open Court.

Matters to be considered
in determining compensa-
tion.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

- first*, the market-value of the land at the date of the publication of the declaration relating thereto under section 6 ;
- secondly*, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof ;
- thirdly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land ;
- fourthly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings ;
- fifthly*, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ; and
- sixthly*, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Matters to be neglected
in determining compensa-
tion.

24. But the Court shall not take into consideration—

- first*, the degree of urgency which has led to the acquisition ;
- secondly*, any disinclination of the person interested to part with the land acquired ;
- thirdly*, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;
- fourthly*, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put ;
- fifthly*, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

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sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ; or

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the declaration under section 6.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

Rules as to amount of compensation.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Form of awards.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

Costs.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation.

Collector may be directed to pay interest on excess compensation.

Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

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APPORTIONMENT OF COMPENSATION.

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29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified.

30. When the amount of compensation has been settled under section 11 if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

Dispute as to apportionment.

PART V.

PAYMENT.

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

Payment of compensation or deposit of same in Court.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted :

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in

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exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract * in respect thereof.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section, and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit ;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would, for the time being, have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid ; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

(a) the costs of such investments as aforesaid ;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto except such as may be occasioned by litigation between adverse claimants.

* As to persons who are competent to contract, see s. 11 of the Indian Contract Act, 1872 (IX of 1872).

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI.

TEMPORARY OCCUPATION OF LAND.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or either periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 35,

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the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

Difference as to condition of land.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

38. (1) Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

Company may be authorized to enter and survey.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted ; and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous consent of Local Government and execution of agreement necessary.

40. (1) Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided,—

Previous enquiry.

(a) that such acquisition is needed for the construction of some work, and

(b) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

41. Such officer shall report to the Local Government the result of the enquiry, and, if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the Local Government for the following matters, namely:—

Agreement with Secretary of State in Council.

- (1) the payment to Government of the cost of the acquisition ;
- (2) the transfer, on such payment, of the land to the Company ;
- (3) the terms on which the land shall be held by the Company ;
- (4) the time within which, and the conditions on which, the work shall be executed and maintained ; and
- (5) the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the Gazette of India, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Publication of agreement.

43. The provisions of sections 39 to 42, both inclusive, shall not apply, and the corresponding sections of the Land Acquisition Act, 1870, * shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

Section 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

How agreement between Railway Company and Secretary of State may be proved.

* Repealed by the present Act.

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PART VIII.

MISCELLANEOUS.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4. by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

Service of notices.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired :

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866,* and service of it may be proved by the production of the addressee's receipt.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Penalty for obstructing acquisition of land.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Magistrate to enforce surrender.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage

* See now the Indian Post Office Act, 1898 (VI of 1898).

suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired :

Acquisition of part of house or building. Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired :

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary ; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation :

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Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Exemption from stamp-duty and fees.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Notice in case of suits for anything done in pursuance of Act.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this

Code of Civil Procedure to apply to proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceedings under this Act.

Appeals in proceedings before Court.

55. (1) The Local Government shall have power to make rules * consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

Power to make rules.

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall, when sanctioned by the Governor-General in Council, be published in the official *Gazette*, and shall thereupon have the force of law.

For instance of rules so made *see*—

(a) Central Provinces List of Local Rules and Orders, Ed. 1896, p. 59;

(b) North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 40.

These rules were made under s. 59 of Act X of 1870, and are kept alive by s. 2, *supra*.

ACT II OF 1894.*

Act III
of
1894.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH FEBRUARY 1894.

An Act to amend the Indian Ports Act, 1889.†

WHEREAS it is expedient to amend the Indian Ports Act, 1889; It is hereby enacted as follows:—

1. For the word "Ditto," where it occurs against "Balasore Ports" in the fourth column of Part I (Bengal) of the first schedule to the Act aforesaid, the following shall be substituted, namely:—
- Amendment of first schedule to Act X of 1889, as regards Balasore Ports.

"Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting-vessels, which shall not be chargeable more than once in thirty days."

ACT III OF 1894.‡

RECEIVED THE G.-G.'S ASSENT ON THE 23RD FEBRUARY 1894.

An Act to amend the Code of Criminal Procedure, 1882,‡ and the Indian Penal Code.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code; it is hereby enacted as follows:—

- 1 to 4. [Amendment of the Code of Criminal Procedure, 1882.] *Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).*

Indian Penal Code.

Addition to section 177 of Indian Penal Code.

5. To section 177 of the Indian Penal Code the following shall be added, namely:—

* Short title, "The Indian Ports Act (1889) Amendment Act, 1894," *See the Indian Short Titles Act, 1897 (XIV of 1897).*

For Statement of Objects and Reasons, see *Gazette of India*, 1893, part V, p. 91; for Report of the Select Committee, see *ibid*, 1894, part V, p. 35; for Proceedings in Council see *ibid*, part VI, pp. 19, 44 and 48.

† Short title, "The Indian Criminal Law Amendment Act, 1894." *See the Indian Short Titles Act, 1897 (XIV of 1897).*

For Statement of Objects and Reasons, see *Gazette of India*, 1893, part V, p. 97; for Report of the Select Committee, see *ibid*, 1894, Part V, p. 37; for Proceedings in Council, see *ibid*, 1893, part VI, p. 196; *ibid*, 1894, part VI, pp. 21, 49 and 55.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act XLV of 1860, declared in force there, *see s. 4* and the first schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

The Act has been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), see *Gazette of India*, 1895, part I p. 310.

‡ Rep. by the Code of Criminal Procedure, 1898 (Act V 1898).

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*“ Explanation.—*In section 176 and in this section the word ‘ offence ’ includes any act committed at any place out of British India, which if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ; and the word ‘ offender ’ includes any person who is alleged to have been guilty of any such act. ”

6. To section 203 of the said Code the following shall be added, namely :— *“ Explanation.—*In sections 201 and 202 and in this section the word ‘ offence ’ includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460. ”

Addition to section 203
of same Code.

7. In section 212 of the Indian Penal Code, immediately before the *Exception* the following shall be inserted, namely :—

“ ‘ Offence ’ in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India. ”

Addition of new sections
after section 216 of same
Code.

8. After section 216 of the said Code the following shall be inserted, namely :—

“ 216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine. ”

Penalty for harbouring
robbers or dacoits.

*“ Explanation.—*For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

*“ Exception.—*This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

“ 216B. In sections 212, 216 and 216A the word ‘ harbour ’ includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting person in any way to evade apprehension.

Definition of ‘ harbour ’
in sections 212, 216 and
216 A.

**Act V
of
1894.**

ACT V OF 1894.*

RECEIVED THE G.-G.'S ASSENT ON THE 2ND MARCH 1894.

An Act to amend the Code of Civil Procedure.

WHEREAS it is expedient to amend the Code of Civil Procedure ; it is hereby enacted as follows :—

Title and commence- (1) This Act may be called the Civil
ment. Procedure Code Amendment Act, 1894 ; and

(2) It shall come into force at once.

Addition of new section after section 310 of Code. 2. After section 310 of the Code of Civil Procedure the following shall be inserted, namely :—

Application by judgment-debtor to set aside sale on deposit of debt. “ 310A. Any person whose immoveable property has been sold under this Chapter may at any time within thirty days from the date of sale apply to have the sale set aside on his depositing in Court—

(a) for payment to the purchaser, a sum equal to five per centum of the purchase-money, and

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder.

“ If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale :

“ Provided that, if a person applies under the next following section to set aside the sale of his immoveable property, he shall not be entitled to make an application under this section.

“ Nothing in this section shall be construed to relieve the judgment-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.”

3. In section 315 of the Code of Civil Procedure the figures and letter Amendment of section “ 310A ” shall be inserted after the word “ section ” 315 of Code. and before the figures “ 312.”

* For Statement of Objects and Reasons, see *Gazette of India*, 1893, part V, p. 60 ; for Report of the Select Committee, see *ibid.* 1894, Part V, p. 43 ; for Proceedings in Council, see *ibid.*, 1894, part VI, pp. 43, 54 and 59 to 71.

This Act is in force in Upper Burma (except the Shan States) as part of the original Act XIV of 1882, declared in force there by s 4 and the first schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

**Act VIII
of
1894.**

ACT VIII OF 1894.*

RECEIVED THE G.-G.'S ASSENT ON THE 10TH MARCH 1894.

An Act to amend the law relating to Customs-duties, and for other purposes.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India and of the territories of certain Native Chiefs, It is hereby enacted as follows :—

Title, extent and commencement.

(1) This Act may be called the Indian Tariff Act, 1894.

(2) It extends to the whole of British India except Aden and Perim; and

(3) It shall come into force at once.

Repeal.

2. (1) The Acts mentioned in the first schedule are repealed to the extent specified therein.

(2) But all notifications published, and rules and orders made, under any of those Acts, and in force immediately before the commencement of this Act, shall, so far as they are consistent herewith, be deemed to have been respectively published and made under this Act; and

(3) All references made to the Indian Tariff Act, 1875,† and the Indian Tariff Act, 1882,‡ in Acts or Regulations passed before the commencement of this Act, shall be deemed to be made to this Act.

(4) Nothing in this Act shall authorize the levy of duties of customs on any article carried from one customs-port in British India to another such port, except salt, opium and spirit.

Duties specified in schedules to be levied.

3. There shall be levied and collected, in every port to which this Act applies, the duties specified in the second, third, fourth and fifth schedules.

* For Statement of Objects and Reasons, see *Gazette of India*, 1894, part V, p. 58; for Report of the Select Committee, see *ibid*, Extraordinary, dated 10th March, 1894, p. 13; and for Proceedings in Council, see *ibid*, part VI, pp. 71 and 96.

† Act XVI of 1875 was repealed by the Indian Tariff Act, 1882 (XI of 1882), s. 2.
Act XI of 1882 is repealed by s. 2 (1) of this Act.

4. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council may determine; and at the close of each year, or as soon thereafter as may be convenient, the Customs-Collector at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council may direct.

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Export of pepper from Cochin.

5. (1) Duties of customs shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by land into,—

Duties on goods crossing certain frontiers.

(a) Foreign European Settlements in India;

(b) any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

Subject to the control of the Governor-General in Council, the Governor of Fort Saint George in Council and the Governor of Bombay in Council may, by notification in the local official *Gazette*, respectively, declare that the territory of any Native Chief situate within, or bordering on, the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

(3) The Governor-General in Council may, by notification in the *Gazette of India*, declare that the territory of any other Native Chief shall be deemed, for the purposes of this section, to be foreign territory.

6. In Act No. XVI of 1863,* section 1, for the words “calculated at ten” the words “not exceeding five” shall be substituted.

Amendment of Act XVI, 1863, section 1.

7. (1) Salt, opium and spirit imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor-General in Council or the Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the third schedule exceeds the duty shown by such certificate to have been already paid in respect thereof.

Duty on salt, opium and spirit, when protected by a certificate.

(2) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

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(3) Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878.

8. So far as regards the Presidency of Fort Saint George, the unrepealed provisions of Act No. VI of 1844,* and, so far as regards the Presidency of Bombay, the unrepealed provisions of Act No. XXIX of 1857,† relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section 5, sub-section (1), clause (b).

‡ 8A. (1) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor-General in Council may, by notification in the Gazette of India, impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

“ (2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor-General in Council, and the Governor-General in Council may, by notification in the Gazette of India, make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (1).

9. All notifications published under this Act may be cancelled by the authority publishing the same.

10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

* Printed, Madras Code, Ed. 1888, p. 119.

† For Act XXIX of 1857, see the revised edition, as modified up to 1st December 1895, published by the Legislative Department.

‡ S. 8 A was added by the Indian Tariff Amendment Act, 1899 (XIV of 1899).

- (a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and
- (b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty, or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction.

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11. In the second paragraph of section 23 of the Sea Customs Act, 1878, the words "with the previous sanction of the Governor-General in Council" shall be inserted after the word "may."

Amendment of Act VIII of 1878, section 23.

SCHEDULE I.

(ACTS REPEALED).

Acts of the Governor-General in

Number and year.	Title.	Extent of Repeal.
XI of 1882	Indian Tariff Act, 1882	So much as has not been repealed. Section 8.
II of 1887	An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.	
II of 1888	An Act to provide for the levy of a customs-duty on Petroleum.	Section 1
VIII of 1889	An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	Sections 3, 4 and 5.
XII of 1890	An Act to amend the Indian Tariff Act, 1882.	The whole.
I of 1892	An Act to amend the Indian Tariff Act, 1882.	Ditto.
IX of 1893	An Act to amend the Indian Tariff Act, 1882, as amended by subsequent Acts.	Ditto.

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*** SCHEDULE II.—(IMPORT TARIFF.)**

Arms, Ammunition and Military Stores,

including also any articles, other than those included in Nos. 1 to 12 of this Schedule, which are "arms" within the meaning of the Indian Arms Act, and any articles which the Governor-General in Council may, by notification in the Gazette of India, declare to be "ammunition" or "military stores" for the purposes of this Act.

Names of Articles.	Duty. Rs. A.
1. Firearms other than pistols, including gas and air guns and rifles, for each	50 0
2. Barrels for the same, whether single or double, for each	30 0
3. Pistols, for each	15 0
4. Barrels for the same, whether single or double, for each	10 0
5. Springs used for firearms, including gas and air guns and rifles, for each	8 0
6. Gunstocks, sights, blocks and rollers, for each	
7. Revolver-breeches, for each cartridge they will carry	2 8
8. Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates and all other parts of a firearm (including a gas and air gun or rifle) not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each	1 8
9. Machines for making, loading, or closing cartridges, for each	10 0
10. Machines for capping cartridges, for each	2 8

in I.—Articles falling under the 5th, 6th, 8th, 9th or 10th head of the foregoing list, when they appertain to a firearm falling under the 1st or 3rd head, and are fitted into the same case with such firearm, are free.

Exception II.—The following are also free, namely :—

- (a) Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military, naval or police uniform ;

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- (b) a sword, a revolver, or a pair of pistols, when accompanying an officer of Her Majesty's Regular Forces, or a commissioned officer of a volunteer corps or certified by the commandant of the corps to which such officer belongs, or in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, to be imported by the officer for the purposes of his equipment ;
- (c) swords and revolvers which are certified by an Inspector-General of Police to be part of the ordinary equipment of members of the Police force under his charge ;
- (d) swords forming part of the equipment of native commissioned officers of Her Majesty's Army ;
- (e) swords for presentation as army or volunteer prizes ;
- (f) arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a Native State in India which may be maintained and organised for Imperial Service ;
- (g) Morris tubes and patent ammunition when imported by officers commanding British and Native regiments or volunteer corps, for the instruction of their men.

Proviso 1.—No duty in excess of ten per cent. *ad valorem* shall be levied upon any of the articles numbered 1 to 10 in the foregoing list when they are imported in reasonable quantity, for his own private use, by any persons lawfully entitled to possess the same.

Proviso 2.—When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under numbers 1 to 10, are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs-Collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per cent. *ad valorem* : and if such Collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.

	Tariff valuation. Rs. A.	Rate of duty.
11. Gunpowder, all sorts	<i>ad valorem</i> .	} 10 per cent.
12. All other sorts of arms, ammunition and military stores	„	

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* SCHEDULE III.—(IMPORT TARIFF.)

LIQUORS, OPIUM, SALT AND SALTED FISH.

No.	Names of Articles.	Per	Rate of Duty.
			Rs. A.
1	LIQUORS—		
	Ale, beer and porter	} Imperial gallon or six quart bottles. }	0 1
	Cider and other fermented liquors...		
	Liqueurs	" "	6 0
	Spirit which has been rendered effectually and permanently unfit for human consumption	} <i>ad valorem</i> ... }	Five per cent.
	Spirit when used in drugs, medi- cines or chemicals in a propor- tion of less than twenty per cent. of spirit of the strength of London proof		
	Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or re- duced in propor- tion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Imperial gallon or six quart bottles.	8 0
	Spirit, other sorts	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduc- ed in proportion as the strength of the spirit exceeds or is less than London proof.
	Wines—		
	Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit.	Imperial gallon or six quart bottles.	2 8
	All other sorts of wines not contain- ing more than 42 per cent. of proof spirit.	Ditto. ...	1 0
	Provided that all sparkling and still wines containing more than 42 per cent. of proof spirit shall be liable to duty at the rate appli- cable to spirit, other sorts.		0 .

* This Schedule was substituted for the original Schedule by the Indian Tariff Act (1894) Amendment Act, 1896 (III of 1896).

SCHEDULE III.—(IMPORT TARIFF)—contd.LIQUORS, OPIUM, SALT AND SALTED FISH—*contd.***Act VIII
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No.	Names of Articles.	Per	Rate of Duty.
			Rs. A.
2	<i>Opium</i> , not covered by a Government pass	Ser of 80 tolas ...	24 0
3	<i>Salt</i>	Indian maund of 82 $\frac{2}{3}$ lb avoirdupois weight.	The rate at which excise-duty is for the time being leviable on salt manufactured in the place where the import takes place.
4	<i>Salted Fish</i> , wet or dry	Indian maund of 82 $\frac{2}{3}$ lb avoirdupois weight.	Such rate or rates of duty not exceeding twelve annas, as the Governor-General in Council may, by notification in the Gazette of India, from time to time prescribe.*

† SCHEDULE IV.

(IMPORT TARIFF.)

GENERAL DUTIES.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Animals, living.		Rs. A.	
1	<i>Horses, Cattle, Sheep</i> and all other living animals of all kinds ... ..	...	...	Free.
	Articles of Food and Drink.			
2	<i>Coffee</i>	cwt.	70 0 $\frac{1}{2}$	Five per cent.
3	<i>Fruits and Vegetables</i> , except fresh fruits and vegetables not separately enumerated, which are free—			
	Almonds without shell	"	48 0 $\frac{1}{2}$	"
	" in the shell	"	15 8 $\frac{1}{2}$	"

See Notification No. 1548 S. R., dated 24th March 1894, *Gazette of India*, 1894, Part I, p. 171.

This Schedule was substituted for the original Schedule by the Indian Tariff Act (1894), Amendment Act, 1896 (III of 1896).

‡ For revised valuation, see *Gazette of India*, 1898, Part I, p. 253.

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SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Articles of Food and Drink— <i>contd.</i>		Rs. A.	
3	<i>Fruits and Vegetables, except fresh fruit and vegetables not separately enumerated, which are free—contd.</i>			
	Cashew or cajoo kernels	cwt.	12 0*	Five per cent.
	Cocoanuts	thousand	35 0	"
	" kernel (khopra)	cwt.	11 0*	"
	Currants, European, in cases	"	10 0*	"
	" " in cans	"	22 0*	"
	" Persian	"	14 0	"
	Dates, dry, in bags	"	5 8	"
	" wet "	"	4 0	"
	" " in pots and boxes	"	8 8	"
	Figs, Persian, dried	"	8 0	"
	Garlic	"	5 0	"
	Hops	"	...	Free.
	Pistachio nuts... ..	cwt.	32 0*	Five per cent.
	Prunes, Bussora (alu-Bokhara)	"	20 0*	"
	Raisins, black	"	10 0*	"
	" kishmish, Persian Gulf and Red Sea	"	15 0*	"
	" Munakka, Persian Gulf and Red Sea	"	9 0*	"
	" other sorts	"	<i>ad valorem</i>	"
	Walnuts... ..	cwt.	10 0*	"
	All other sorts of fruits and vegetables	"	<i>ad valorem</i>	"
4	<i>Grain and Pulse, including broken grain and pulse, but not including flour</i> ... ..	...	...	Free.
5	<i>Mineral and Aerated Waters, and all unfermented and non-alcoholic beverages...</i>	...	<i>ad valorem</i>	Five per cent.
†6	<i>Provisions, Oilman's Stores and Groceries—</i>			
	Bacon in canvas and cans, jowls and cheeks	lb.	0 12	"
	Beef and Pork	tierce of 3 cwt. barrel of 2 cwt.	100 0 } 75 0 }	"
	Beche de mer	"	50 0	"
	Butter	lb.	1 0	"

* For revised valuation, see *Gazette of India*, 1898, Part I, p. 253.

† This entry was substituted for the original entry by Notification No. 2434, dated 28th May 1898, *Gazette of India*, 1898, Part I, p. 526.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.***GENERAL DUTIES—*contd.*****Act VIII
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No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Articles of Food and Drink— <i>contd.</i>			
6	Provisions, Oilman's Stores and Groceries—<i>contd.</i>			
	Cheese	lb.	0 14*	Five per cent.
	China preserves	box of six jars.	5 8	"
	" fruit preserves, dry candied ...	lb.	0 5	"
	Cocum	cwt.	5 0	"
	Fish-maws	"	100 0	"
	Flour	barrel or sack of 200lb.	20 0*	"
	Ghi	cwt.	40 0	"
	Groceries not otherwise described ...	"	<i>ad valorem</i>	"
	Pork hams	lb.	0 14*	"
	Sago	cwt.	8 8†	"
	Shark-fins	"	40 0	"
	§ Singally and sozille	"	25 0	"
	Tapioca	"	9 8	"
	Vinegar, European, in wood ...	Imperial gallon.	1 0	"
	" Persian	"	1 8	"
	" Country	"	0 6	"
	All other sorts of provisions, oilman's stores and groceries ... ..	...	<i>ad valorem</i>	"
7	Spices—			
	Betelnuts—Goa	cwt.	17 0*	"
	" —in the husk	thousand	2 0	"
	" —all other sorts ... ..	...	<i>ad valorem</i>	"
	Cardamoms, Ceylon	cwt.	150 0*	"
	Chillies, dry	"	11 0*	"
	Cloves	"	20 0‡	"
	" stems and heads	"	4 0	"
	" in seeds, narlavang	"	8 8*	"
	Ginger, dry	"	16 0*	"
	Mace	lb.	1 8	"
	Nutmegs	"	1 0*	"
	" in shell	"	8	"

* For revised valuation, see *Gazette of India*, 1898, Part I, p. 253.† For revised valuation, see *Gazette of India*, 1897, Part I, p. 275.‡ For revised valuation, see *Gazette of India*, 1898, Part I, p. 797.§ These have been exempted from the import duty leviable under this Act, see *Gazette of India*, 1892, Part I, p. 1202.

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SCHEDULE IV.—(IMPORT TARIFF)—contd.

GENERAL DUTIES—contd.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Articles of Food and Drink— contd.			
8	<i>Spices—contd.</i>			
	Pepper, black	cwt.	16 0 *	Five per cent
	„ long	„	7 0 †	„
	„ white	„	30 0 †	„
	All other sorts of spices ... ..	...	<i>ad valorem</i>	„
	<i>Sugar, China, candy</i>	cwt.	20 0	„
	„ loaf	„	21 0 †	„
	„ crystallized, beet	„	13 0 †	„
	„ „ and soft from China	„	13 0 †	„
	„ „ and soft from Mauri- tius	„	11 0	„
	„ soft or raw, other than from Mauritius or China	„	10 0	„
	„ all other sorts. including sac- charine produce of all kinds and confectionery ... ..	...	<i>ad valorem</i>	„
9	<i>Tea, black</i>	lb.	0 8	„
	„ green	„	0 12 †	„
	Chemicals, Drugs, Medicines, and Narcotics and Dyeing and Tanning Materials.			
† 10	<i>Chemical Products and Preparations—</i>			
	Acid, sulphuric	lb.	0 2 †	„
	Alkali, country (sajji-khar)	cwt.	1 8	„
	Alum	„	5 0 †	„
	Arsenic	„	21 8	„
	„ China mansil	„	17 0	„
	Bicarbonate of soda	„	7 0	„
	Copperas, green	„	3 0	„
	Explosives, namely, blasting gelatine, dynamite, roburite, tonite, and all other descriptions, and including detonators and blasting fuse ... ..	...	<i>ad valorem</i>	„
	Sal ammoniac	cwt.	37 0 †	„
	Sulphate of copper	„	15 8 †	„

* For revised valuation, see *Gazette of India*, 1898, Part I, p. 797.

† For revised valuation, see *Gazette of India*, 1898, Part I, p. 253.

‡ Nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, Kainit salts, have been exempted from the duty leviable under this Article, see *Gazette of India*, 1898, Part I, p. 781.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.***Act VIII
of
1894.****GENERAL DUTIES—*contd.***

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Chemicals, Drugs, Medicines, and Narcotics and Dyeing and Tanning Materials—<i>contd.</i>			
10	<i>Chemical Products and Preparations—<i>contd.</i></i>			
	Sulphur (brimstone), flour	cwt.	6 0	Five per cent.
	" ("), roll	"	5 12	"
	" ("), rough	"	4 8	"
	All other sorts of chemical products and preparations, including saltpetre and borax ... ..	...	<i>ad valorem</i>	"
11	<i>Drugs, Medicines and Narcotics—</i>			
	Aloes, black	cwt.	14 0 *	"
	" Socotra	"	30 0	"
	Aloe-wood	lb.	6 0	"
	Asafoetida (hing)	cwt.	65 0	"
	" coarse (hingra)	"	21 0 *	"
	Atary, Persian	"	15 0	"
	Banslochan (bamboo camphor)	lb.	0 4	"
	Brimstone (amalsâra)	cwt.	50 0 *	"
	Calumba or Colombo root	"	7 0	"
	Camphor, Bhimsaini (baras)	lb.	70 0	"
	" refined, cake	"	1 4 *	"
	" crude, in powder	"	0 12	"
	Cassia lignea	cwt.	22 0 *	"
	China root (chobchini), rough	"	8 0	"
	" " ("), scraped	"	17 8	"
	Cubebs	"	25 8 *	"
	Galangal, China	"	7 0	"
	Pellitory (akalkâra)	"	40 0 *	"
	Peppermint crystals, from China and Japan	lb.	11 8 *	"
	Quinine and other alkaloids of chin-chona ... ..	...	...	Free.
	Salep	cwt.	80 0	Five per cent.
	Senna leaves	"	4 0 *	"
	Storax, liquid (rose melloes)	"	54 0 *	"
	Tobacco, unmanufactured ... ..	...	...	Free.
	" manufactured ... ..	...	<i>ad valorem</i>	Five per cent.
	All other sorts of drugs, medicines and narcotics, except opium (for which see Schedule III)	"	"

* For revised valuation, see *Gazette of India*, 1898, Part 1, p. 254.

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SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Chemicals, Drugs, Medicines and Narcotics, and Dyeing and Tanning Materials—<i>concl'd.</i>			
12	<i>Dyeing and Tanning Materials—</i>			
	* Alizarine dye, dry 40 per cent. ...	lb	1. 7	Five per cent.
	" " " 50 " ...	"	1 10	"
	" " " 60 " ...	"	1 15	"
	" " " 70 " ...	"	2 2	"
	" " " 80 " ...	"	2 8	"
	" " " 100 " ...	"	2 12	"
	" " liquid, 10 " ...	"	0 5	"
	" " " 16 " ...	"	0 8	"
	" " " 20 " ...	"	0 10	"
	Aniline " " indigo blue ...	"	0 9*	"
	" " dry ...	"	1 8	"
	Avar bark ...	cwt.	4 8*	"
	Buzgand (gulpista) ...	"	27 0*	"
	Cochineal ...	lb	1 2	"
	Gallnuts (myrabolams) ...	cwt.	4 0*	"
	" Persian ...	"	35 0	"
	Madder or Manjit ...	"	7 0*	"
	Orchilla weed ...	"	5 0*	"
	Sappan wood and root ...	"	5 8	"
	All other sorts of dyeing and tanning materials ...	...	<i>ad valorem</i>	"
	Metals and Manufactures of Metals.			
13	† <i>Hardware and Cutlery</i> , including iron-mongery and plated-ware, and also including machines, tools and implements to be worked by manual or animal labour, except water-lifts, sugar-mills, oil presses and parts thereof, and any other machines and parts of machines ordinarily used in processes of husbandry, or for the preparation for use or for sale of the products of husbandry which the Governor-General in Council may, by notification in the Gazette of India, exempt, all of which are free ...	...	<i>ad valorem</i>	"

* For revised valuation, see *Gazette of India*, 1898, Part I, p. 254.

For notification reducing the duty on lever-boxes not imported for a railway under Article 93, see *Gazette of India*, 1898, Part I, p. 49.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.***GENERAL DUTIES—*contd.*****Act VIII
of
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No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals—<i>contd.</i>		Rs. A.	
14	<p><i>Machinery, namely, prime-movers, and component parts thereof, including boilers and component parts thereof ; also including locomotive and portable engines, steam-rollers, fire-engines and other machines in which the prime-mover is not separable from the operative parts</i></p> <p>„ (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire, or other power not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts ; and which are intended for—</p> <p>(a) the preparing, ginning, pressing, spinning, weaving, sewing, knitting, bleaching, and dyeing of * cotton, jute, hemp, silk, wool, or other fibres, and any other process intervening between the raw material and the finished product as packed ready for the market ;</p> <p>(b) the smelting and milling of iron and other metallic ores and the manufacture of iron, steel and other metals ;</p> <p>(c) the manufacture of leather, sugar, indigo, silk, paper, soap, gae, oil, flour, cordage, rope and twine ;</p> <p>(d) the milling of rice ;</p> <p>(e) the manufacture of tea † in all its stages, from the drying of the leaf to its packing for the market inclusive ;</p>	...	...	Free.

* For notification exempting certain articles used in the manufacture of cotton from duty under Act, see *Gazette of India*, 1896, Part I, p. 98.

† Racks for withering tea have been exempted from duty leviable under the Act, see *Gazette of India*, 1896, Part I, p. 485.

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SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Metals and Manufactures of Metals—<i>contd.</i>			
14	<p>* <i>Machinery</i> (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire, or other power not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; and which are intended for—<i>contd.</i></p> <p>(f) the pulping of coffee;</p> <p>(g) printing presses;</p> <p>(h) foundries and workshops of iron and other metals;</p> <p>(i) railway workshops;</p> <p>(j) the refining of petroleum, and the manufacture of vegetable oils;</p> <p>(k) the crushing of bones and bricks;</p> <p>(l) the manufacture of lac;</p> <p>(m) potteries;</p> <p>(n) saw-mills;</p> <p>(o) agriculture, mining, navigation, dredging and pumping;</p> <p>(p) such other manufactures and industries as the Governor-General in Council may from time to time specify;</p>	...	...	Free.

* Machinery (and the component parts thereof) for the generation of electricity has been exempted from duty under the Act, see *Gazette of India*, 1896, Part I, p. 344.

Machinery (and the component parts thereof) for the manufacture of tiles and bricks has been exempted from duty under the Act, see *Gazette of India*, 1897, Part I, p. 66.

Machinery (and the component parts thereof) for the manufacture of articles made of leather and the manufacture of matches has been exempted from duty under the Act, see *Gazette of India*, 1897, Part I, p. 730.

Machinery (and the component parts thereof) for the treatment of tobacco has been exempted from duty under the Act, see *Gazette of India*, 1897, Part I, p. 1156.

Machinery (and the component parts thereof) for the manufacture of paraffin candles has been exempted from duty under the Act, see *Gazette of India*, 1898, Part I, p. 375.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals—<i>contd.</i>		Rs. A.	
	Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery and are, owing to their shape or to other special quality, not adapted for any other purpose. <i>Note.</i> —Machinery and component parts thereof made of substances other than metal are included in this entry. <i>Machinery</i> and component parts thereof not included in the foregoing exemptions ... ..	...	<i>ad valorem</i>	Five per cent.
15	<i>Metals</i> , unwrought and wrought, and articles made of metals—			
	Brass, beads, ghungri, china	thousand	0 12	"
	" foil or dankpana, white, 10½ in. x 4½ in.	hundred leaves.	1 4*	"
	" foil or dankpana, coloured, 10½ in. x 4½ in.	"	1 12*	"
	" old	cwt.	26 0	"
	" sheets, flat or in rolls, very thin.	"	100 0	"
	" wire	lb.	0 7	"
	" all other sorts ... ..	...	<i>ad valorem</i>	"
	Copper ... ..	...	...	†
	" bolt	cwt.	50 0	"
	" brazier's and sheets	"	45 0	"
	" China cash	"	30 0	"
	†
	" nails and composition nails ...	cwt.	50 0	"
	" old	"	38 0	"
	" pigs and slabs	"	38 0	"
	" sheathing, plate and raised bottoms.	"	48 0*	"
	" tiles, ingots, cakes and bricks.	"	40 0	"
	" China white copperware ...	lb.	1 2	"
	" foil or dankpana, white, 10½ in. x 4½ in.	hundred leaves.	2 6*	"

* For revised valuation, see *Gazette of India*, 1898, Part I, p. 254.† The entries relating to Copper, Australian and Japan, were eliminated by Notification No. 4899, S. R., dated 20th November 1896, see *Gazette of India*, 1896, Part I, p. 928.

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SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Metals and Manufactures of Metals—<i>contd.</i>			
15	<i>Metals, unwrought and wrought, and articles made of metals—contd.</i>			
	Copper, foil or dankpana, coloured, 10½ in. x 4½ in.	hundred leaves.	3 3*	Five per cent.
	„ wire, including wire of phosphor-bronze ...	lb	0 9*	„
	„ „ all other sorts, unmanufactured and manufactured, except current coin of the Government of India, which is free ...	...	<i>ad valorem</i>	„
	Gold bullion and coin... ..	...	...	Free.
	Go'd leaf, European	hundred leaves.	3 4*	Five per cent.
	Iron, anchors and cables ... ..	...	<i>ad valorem</i>	One per cent.
	„ angle, T and channel	ton	110 0*	„
	„ angle and T (if galvanised) ...	„	160 0*	„
	„ „ „ (if tinned) ... ..	...	<i>ad valorem</i>	„
	„ bar, plate and sheet, Lowmoor..	ton	310 0*	„
	„ bar, of any kind not specified in this number ... ..	...	<i>ad valorem</i>	„
	„ beams, joists, pillars, girders, bridge-work, and other descriptions of iron imported exclusively for building purposes... ..	...	„	„
	„ flat, square and bolt, including Scotch	ton	94 0†	„
	„ flat, square and bolt, including Scotch (if galvanised) ...	„	150 0	„
	„ flat, square and bolt, including Scotch (if tinned) ... ..	...	<i>ad valorem</i>	„
	„ ‡ hoop, plate and sheet, other than Swedish	ton	122 0	„
	„ nails, rose, wire and flat-headed.	cwt.	10 0*	„
	„ nails, clasp	„	17 0	„
	„ nails, other sorts, including galvanised ... ..	...	<i>ad valorem</i>	„
	„ nail-rod	ton	104 0	„
	„ nuts and bolts ... ..	...	<i>ad valorem</i>	„
	„ old	cwt.	2 8	„

* For revised valuation, see *Gazette of India*, 1898, Part I, 54.

† For revised valuation, see *Gazette of India*, 1897, Part I, p. 275.

‡ For notification fixing duty on galvanised hoop iron, see *Gazette of India*, 1897, Part I, p.

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‡ For revised valuation, see *Gazette of India*, 1987, Part I, p. 475

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SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals—<i>contd.</i>		Rs. A.	
15	<i>Metals</i> , unwrought and wrought, and articles made of metals— <i>contd.</i>			
	Orsidue and brass leaves, China ...	lb	0 12	Five per cent.
	Patent or yellow metal, sheathing sheets and bolts ...	cwt.	40 0	"
	Patent or yellow metal, sheathing sheets, and bolts, old ...	"	27 0	"
	Quicksilver ...	lb	1 8	"
	Shot, bird ...	cwt.	16 0	"
	Silver bullion or coin, except current coin of the Government of India, which is free ...	...	<i>ad valorem</i>	"
	Steel, angle, channel and spring ...	...	"	One per cent.
	" bar and blooms ...	...	"	"
	" basic, all sorts (other than galvanised or tinned basic steel sheets) ...	ton	100 0*	"
	" basic, sheets (if galvanised) ...	"	210 0	"
	" " (if tinned) ...	...	<i>ad valorem</i>	"
	" beams, joists, pillars, girders, bridgeworks, and other descriptions of steel imported exclusively for building purposes, ...	...	"	"
	" cast and blistered of any kind not specified in this No. ...	...	"	"
	" hoops ...	ton	145	"
	" nails ...	...	<i>ad valorem</i>	"
	" nuts and bolts and nail-rods ...	...	"	"
	" old ...	ton	60 0*	"
	" pipes and tubes ...	...	<i>ad valorem</i>	"
	" plates and sheets ...	ton	130 0	"
	" " " other than basic (if galvanised) ...	"	220 0*	"
	" plates and sheets, other than basic (if tinned) ...	...	<i>ad valorem</i>	"
	" rails, chairs and fish-plates other than those described in No. 93, also spikes (commonly known as dog spikes) ...	...	"	"
	" rivets and washers ...	ton	220 0*	"
	" " (if galvanised) ...	"	320 0*	"
	" " (if tinned) ...	...	<i>ad valorem</i>	"
	" T-bars ...	ton	105 0*	"

* For revised valuation, see *Gazette of India*, 1893, Part I, p. 254.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*Act VIII
of
1894.GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Metals and Manufactures of Metals—<i>concl'd.</i>			
15	<i>Metals, unwrought and wrought, and articles made of metals—concl'd.</i>			
	Steel T-bars (if galvanised)	ton	180 0	One per cent.
	„ „ (if tinned) ... ..	...	<i>ad valorem</i>	„
	„ wire, excluding wire-netting ... ..	...	„	„
	„ wire-rope ... ..	...	„	„
	„ all other sorts, including wire-netting ... ..	...	• •	Five per cent.
	Tin, block	cwt.	72 0*	„
	„ foil, China	lb	0 12	„
	„ other sorts ... ..	...	<i>ad valorem</i>	„
	Zinc or spelter, nails	cwt.	20 0	„
	„ „ plates and other shapes, soft	„	18 0	„
	„ „ plates and other shapes, hard	„	13 0	„
	„ „ sheet or sheathing	„	19 0	„
	„ „ all other sorts ... ..	...	<i>ad valorem</i>	„
	All other sorts of metals ... ..	...	„	„
	Oils.			
16	<i>Oils—</i>			
	Cajeputi	quart	1 4*	„
	Cassia	lb	2 8*	„
	Cocoa nut	cwt.	16 0	„
	Earthnut	„	16 0*	„
	Grass	lb	1 12*	„
	Jinjili or til	cwt.	16 0	„
	Linseed, European	Imperial gallon.	2 0	„
	Otto of sorts	ounce	15 0	„
	Petroleum, including also naphtha and the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffin oil, mineral oil, petrolin, gasoline, benzol, benzoline, benzine and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance,			

* For revised valuation, see *Gazette of India*, 1898, Part I. p. 254.

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SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Oils—<i>contd.</i>			
	or from any products of petroleum ...	Imperial gallon	...	One anna.
*	Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's Thermometer and is proved to the satisfaction of the Customs-Collector to be intended for use exclusively for the batching of jute or other fibre or for lubricating purposes ...	...	<i>ad valorem</i>	Five per cent.
	Sandalwood... ..	...	7 0†	
	Whale (except spermaceti), and fish ...	cwt.	15 0	
	Wood	"	25 0	
	All other sorts of oil, including paraffin wax ... ..	...	<i>ad valorem</i>	"
	Other Articles, unmanufactured and manufactured.			
17	Amber, and Articles made of Amber, including imitation amber ... ..	...	"	"
18	Apparel, including drapery, haberdashery, and millinery, and military and other uniforms and accoutrements; but excluding cotton-hosiery (for which see No. 44) and boots and shoes (for which see No. 70), and excluding also uniforms and accoutrements appertaining thereto, imported by a public servant for his personal use, which are free ...	...	"
19	Art, works of, except statuary and pictures intended to be put up in a public place, which are free ... ..	...	"	"
20	Asbestos, and Articles made of Asbestos, not otherwise described ... ..	...	"	"
21	Bags, Casks, Boxes, and other packages, empty, of all kinds ... ..	...	"	"

Petroleum which has its flashing point above 200° F. and is intended for use as fuel has been exempted from customs-duty in excess of 5 per cent. *ad valorem*, see *Gazette of India*, 1897, Part I, p. 1156.
† For revised valuation, see *Gazette of India*, 1898, Part I, p. 254.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.***Act VIII
of
1894.****GENERAL DUTIES—*contd.***

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—<i>contd.</i>		Rs. A.	
22	Bamboos, common grass, hay, rushes, straw and leaves ... ..	...	...	Free.
23	Beads, of all materials except glass, for which see. No. 58, and brass, for which see No. 15—			
	Beads, China, Ankdana	133½ lb	35 0*	Five per cent.
	Beads, China, Dagri	"	30 0*	"
	" " Gadgadā	"	24 0	"
	" " Kamrakhi	"	32 0*	"
	" " Lalri	"	44 0*	"
	" " Naksi	"	38 0	"
	" " Pakhvāaji	"	30 0*	"
	" " Sulemani	"	34 0*	"
	All other sorts ... ..	...	<i>ad valorem</i>	"
24	Belting of cotton, leather, or other mate- rial, for driving machinery ... ..	...	...	Free.
25	Bone, including Whalebone, articles made of ... ..	...	<i>ad valorem</i>	Five per cent.
26	Books, printed, including covers for print- ed books, maps, charts and plants, proofs, music and manuscripts ... ..	...	...	Free.
27	Bristles and Fibre, for brushes and brooms ... ..	...	...	"
28	Brushes and Brooms, all sorts ... ..	...	<i>ad valorem</i>	Five per cent.
29	Building and Engineering Materials, namely, asphalt, bricks and tiles, cement of all kinds, fire-clay, earthen- ware piping, lime and other kinds not otherwise described ... ..	...	"	"
30	Cabinet-ware and Furniture ... ..	...	"	"
31	Candles, Paraffin	lb	0 6	"
	" spermaceti	"	0 7	"
	" wax	"	1 0	"
	All other sorts	<i>ad valorem</i>	"

* For revised valuation see *Gazette of India*, 1898, Part I, p. 255.

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of
1894.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation,	Duty.
			Rs. A.	
	Other Articles, unmanufactured and manufactured—<i>contd.</i>			
32	<i>Canes and Rattans, articles made of Cane or Rattan, and Basket Work—</i>			
	Canes, Malacca	dozen	5 0*	Five per cent.
	Rattans	cwt.	10 0	"
	All other sorts ... ..	...	<i>ad valorem</i>	"
33	<i>Carriages and Carts, including bicycles, tricycles, jinrikshas, Bath chairs, perambulators, trucks, wheel-barrows, and all other sorts of conveyances and component parts thereof</i> ... ..	...	"	"
34	<i>Cases (empty) for spectacles, opera glasses, jewellery and other articles</i> ... ..	...	"	"
35	<i>Celluloid, articles made of, not otherwise described</i> ... ..	...	"	"
36	<i>Chalk, common</i> ... ..	...	"	"
	" <i>French, knife and plate powder, Bath bricks, emery powder, and whiting</i> ... ..	...	"	"
37	<i>Chinese and Japanese ware, including lacquered ware, but excluding earthenware, china, and porcelain (for which see No. 47)</i> ... ..	...	"	"
38	<i>Clocks, Watches, and other time-keepers, and parts thereof</i> ... ..	...	"	"
39	<i>Coal, Coke, and patent fuel</i> ... ..	...	...	Free.
40	<i>Coir, and articles made of Coir, except Cable and Rope (for which see No. 42)—</i>			
	Yarn of all kinds	cwt.	9 0*	Five per cent.
	All other sorts ... ..	...	<i>ad valorem</i>	"
41	<i>Coral, real</i> ... ..	...	"	"

* For revised valuation, see *Gazette of India*, 1898, Part I, p. 255.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*Act VIII
of
1894.GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—<i>contd.</i>		Rs. A.	
42	<i>Cordage, Rope, and Twine made of any vegetable fibre—</i>			
	Coir, cables, tarred	cwt.	17 0	Five per cent.
	„ rope	„	10 0	„
	Cordage, hemp, European	„	25 0	„
	„ „ Manila	„	28 0	„
	Twine, sail, European	lb.	0 9*	„
	All other sorts of cordage, rope, and twine ... ..	...	<i>ad valorem</i>	„
43	<i>Cork, and articles made of Cork—</i>			
	Bottle corks	gross	1 8	„
	Vial corks	„	0 8	„
	All other sorts ... ..	...	<i>ad valorem</i>	„
44	<i>Cotton, and articles made of Cotton—</i>			
	„ raw ... ..	...	...	Free.
	„ twist and yarn ... ..	...	...	„
	„ sewing thread ... ..	...	...	„
	„ piece-goods, hosiery, and all other manufactured cotton goods not otherwise described ... ..	...	<i>ad valorem</i>	Three and one-half per cent.
45	<i>Disinfecting and Deodorising Fluid and Powder</i> ... ..	...	„	Five per cent.
46	<i>Earth, Common Clay, and Sand</i> ... ..	...	...	Free.
47	<i>Earthenware</i> (except earthenware piping, for which see No. 29), china, china clay, porcelain, and imitation or false coral... ..	...	<i>ad valorem</i>	Five per cent.
48	<i>Eggs, ostrich and other, not mounted</i> ... ..	...	„	„
49	<i>Emery paper and cloth, and sand-paper.</i> ... ..	...	„	„
50	<i>Fans of all kinds, except common palm-leaf fans, which are free</i> ... ..	...	„	„
51	<i>Feathers, including bird-skins</i> ... ..	...	„	„
52	<i>Fireworks, all sorts, including fulminating-powder</i>	„	„

* As to revised valuation, see *Gazette of India, 1896, Part I, p. 1022.*

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of
1894.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Other articles, unmanufactured and manufactured—<i>contd.</i>			
53	Flax, and articles made of flax, including linen thread ... ..	...	<i>ad valorem</i>	Five per cent.
54	Flowers, Artificial, not otherwise described ... ..	...	"	"
55	Furniture Tackle, and Apparel, not otherwise described, for steam, sailing, rowing and other vessels ... ..	...	"	"
56	Fur, and articles made of fur, not otherwise described ... ..	...	"	"
57	Gelatine ... ..	...	"	"
58	Glass, Glass-ware, and False Pearls—			
	Glass, China, all colours	133½ lb	32 0*	"
	" crown, coloured	100 superficial feet.	15 0*	"
	" " of sizes	"	6 0*	"
	Pearls, false, bājria	lakh	3 0	"
	" " boria	thousand	0 10	"
	" " jauria	lakh	6 0	"
	" " lolakh	thousand	0 8	"
	" " nathia	"	0 3	"
	" " táchia	"	0 8	"
	" " wattanah	lakh	10 0	"
	All other sorts of glass and manufactures of glass, including false pearls and glass beads ... ..	...	<i>ad valorem</i>	"
59	Gums, Gum-Resins, and articles made of gum or gum-resin—			
	Copal	cwt.	70 0	"
	Cutch and gambier	"	20 0*	"
	Gamboge	lb	1 4	"
	Gum Ammoniac	"	15 0	"
	" Arabic	"	18 0*	"
	" Bdellium (common gum)	"	8 0	"
	" Benjamin	"	40 0	"
	" Bysabol (coarse myrrh)	"	16 0*	"
	" Olibanum or frankincense	"	11 0	"

* For revised valuation, see *Gazette of India*, 1898, Part I, p. 255.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*Act VIII
of
1894.GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—<i>contd.</i>		Rs. A.	
	<i>Gums, Gum-Resins, and articles made of gum or gum-resins—</i>			
	Gum Persian (false)	cwt.	11 0*	Five per cent.
	„ Kino	„	10 0	„
	Myrrh	„	33 0	„
	Rosin	„	6 0*	„
	All other sorts of gums, gum-resins, and articles made of gum or gum-resin, including caoutchouc and guttapercha ... ..	...	<i>ad valorem</i>	„
60	<i>Hair</i> of all kinds, and articles made of hair ... ..	...	„	„
61	<i>Hemp</i> , including Manila hemp, and articles made therefrom (except cordage, rope, and twine, for which see No. 42.)	...	„	„
62	<i>Hides and Skins</i> (except raw or salted hides and skins, which are free)—			
	Hides, border	each	38 0	„
	„ buffalo	score	70 0	„
	„ cow	„	60 0	„
	Skins, including parchment and vellum, goldbeater's skins, and all other descriptions of hides or skins.	...	<i>ad valorem</i>	„
63	<i>Horn...</i> ... ..	...	...	Free.
	„ articles made of, not otherwise described ... ..	...	<i>ad valorem</i>	Five per cent.
64	<i>Instruments, Apparatus, and Appliances, and parts thereof—</i>			
	Computing, Dental, Distilling, Dying, Drawing, Educational, Electric, Electric lighting, Galvanic, Measuring, Musical, Optical, Philosophical, Phonographic, Photographic (including materials for Photography), Scientific, Surgical, Surveying, Telegraphic, Telephonic, Typewriters, and all other sorts, except Telegraphic instruments and apparatus when imported by or under the orders of a railway company, which are free	„	„

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of
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SCHEDULE IV—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Other Articles, unmanufactured and manufactured—<i>contd.</i>			
65	<i>Ivory and Ivory-ware—</i>			
	Unmanufactured—			
	Elephants' grinders	cwt.	350 0	Five per cent.
	Elephants' tusks (other than hollows, centres and points) each exceeding 20lb in weight, and hollows, centres and points each weighing 10lb and over	"	800 0*	"
	Elephants' tusks (other than hollows, centres and points) not less than 10lb and not exceeding 20lb each, and hollows, centres and points each weighing less than 10lb	"	680 0*	"
	Elephants' tusks, each less than 10lb (other than hollows, centres and points)	"	525 0*	"
	Sea-cow or moye teeth, each not less than 4lb	"	200 0	"
	Sea-cow or moye teeth, each not less than 3lb and under 4lb	"	185 0	"
	Sea-cow or moye teeth, each less than 3lb	"	135 0	"
	All other sorts, manufactured and un- manufactured ... ..	...	<i>ad valorem</i>	"
66	<i>Jet, articles made of</i> ... ..	...	"	"
67	<i>Jewellery and Jewels, including plate and other manufactures of gold and silver—</i>			
	Silverware, plain } other	tola	1 0	"
	" embossed } than	"	1 4	"
	" or chased } European.	"		"
	All other sorts, except precious stones and pearls, unset, which are free ...	...	<i>ad valorem</i>	"
68	<i>Jute, raw</i> ... ..	...	...	Free.
	" articles made of, except second hand or used gunny bags, which are free ... ..	...	<i>ad valorem</i>	Five per cent.
69	<i>Lac, all sorts, and articles made of lac</i> ...	...	...	"

* For revised valuation, see *Gazette of India*, 1899, Part I, p. 255.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*Act VIII
of
1894.GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Other Articles, unmanufactured and manufactured—<i>contd.</i>			
70	* <i>Leather</i> , and articles made of leather, including boots and shoes, harness and saddlery ... ..	...	<i>ad valorem</i>	Five per cent.
71	<i>Manures</i> of all kinds, including animal bones ... ..	...	...	Free.
			• •	
72	<i>Marine and Naval Stores</i> , not otherwise described ... ..	...	<i>ad valorem</i>	Five per cent.
73	<i>Matches</i> , all sorts ... ..	...	"	"
74	<i>Mats and Matting</i> — Floor-matting, China and Singapore, of all sorts... ..	hundred	60 0	"
	All other sorts, except coir-matting (for which see No. 40) ... ..	...	<i>ad valorem</i>	"
75	<i>Mica and Talc</i> , and articles made therefrom ... ..	...	"	"
76	<i>Minerals</i> not otherwise described ...	...	"	"
77	<i>Models</i> of all descriptions ... ..	...	"	"
78	<i>Moulders' Blacking and Sand</i> ... ..	...	"	"
79	<i>Oilcake</i> ,* also bran, fodder, and cattle-food of all kinds ... ..	...	...	Free.
80	<i>Oil-cloth and Floor-cloth</i> , including lin-crusta, linoleum, and tarpaulins ...	...	<i>ad valorem</i>	Five per cent.
81	<i>Paints, Colours, Painters' Materials</i> , and compositions for application to leather, wood, and metals—			
	Ochre, other than European, all colours.	cwt.	1 8†	"
	Paints, composition	"	65 0	"
	" patent driers	"	10 0	"
	Prussian blue, China	lb	0 8	"
	" " European... ..	"	1 0	"

* For notification exempting saddlery of a military pattern imported by an officer of Her Majesty's Regular Forces and forming part of the equipment he is required to possess, from duty under the Act, see *Gazette of India*, 1898, Part I, p. 101.

† For revised valuation, see *Gazette of India*, 1898, Part I, p. 255

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of
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SCHEDULE IV. — (IMPORT TARIFF) — *contd.*

GENERAL DUTIES — *contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured — <i>contd.</i>		Rs. A.	
	<i>Paints, Colours, Painters' Materials, and compositions for application to leather, wood and metals — (contd.).</i>			
	Red lead	cwt.	14 0	Five per cent.
	Turpentine	Imperial gallon.	2 0	"
	Verdigris	cwt.	70 0	"
	Vermilion, Canton	box of 90 bundles.	95 0	"
	White lead	cwt.	16 0	"
	White zinc	"	25 0	"
	All other sorts, including glue and putty ... ..	...	<i>ad valorem</i>	"
82	<i>Paper, Pasteboard, Millboard, and Card-board</i> of all kinds, including ruled or printed forms and account and manuscript books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also waste paper and old newspapers for packing ... ..	...	"	"
	<i>Paper, articles made of paper and papier-mâché</i> ... ..	...	"	"
83	<i>Perfumery —</i>			
	Gowla, husked and unhusked	cwt.	35 0*	"
	Kapurkachri (zedoary, China)	"	9 8*	"
	Patch leaves (Patchouli)	"	9 8*	"
	Rose-flowers, dried	"	16 0	"
	Rose-water	Imperial gallon.	2 0	"
	All other sorts, except perfumed spirit (for which see Schedule III) ... ..	...	<i>ad valorem</i>	"
84	<i>Pipes</i> and other implements used in the consumption of tobacco and other narcotics ... ..	...	"	"
85	<i>Pitch, Tar and Dammer —</i>			
	Bitumen ... ..	...	"	"
	Dammer	cwt.	5 8*	"
	Pitch, American and European	"	7 0	"
	" coal	"	2 8*	"

* For revised valuation, see *Gazette of India*, 1898, Part I, p. 251.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.***Act VIII
of
1894.****GENERAL DUTIES—*contd.***

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—<i>contd.</i>		Rs. A.	
	<i>Pitch, Tar and Dammer—(contd.)</i>			
	Tar, American and European	cwt.	6 0	Five per cent.
	„ coal	„	3 0*	„
	„ mineral ... ..	...	<i>ad valorem</i>	„
86	<i>Plants and Bulbs</i> , living, also dried for herbaria ... ..	...	• • ...	Free.
87	<i>Plaster of Paris</i> , and articles made of plaster of Paris, not otherwise described	...	<i>ad valorem</i>	Five per cent.
88	<i>Plumbago</i> , and articles made of plum- bago ... ..	...	„	„
89	<i>Precious Stones and Pearls</i> , unset	...	...	Free.
90	<i>Pulp</i> of wood, straw, rags, paper, and other materials ... ..	...	...	„
91	<i>Printing and Lithographing Material</i> , namely, presses, type, ink, brass rules, composing sticks, chases, imposing tables, and lithographic stones, but not including paper ... ..	...	...	„
92	<i>Rags</i> ... ..	...	...	„
93	<i>Railway Material</i> for permanent-way and rolling-stock, namely, cylinders, girders and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts chairs, spikes, crossings, sleep- er fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh- bridges, engines, tenders, carriages, waggon, traversers, trollies, trucks and component parts thereof; also cranes and water cranes and standards, wire and other material for fencing, when import- ed by or under the orders of a railway company: Provided that for the purpose of this ex- emption "railway" means a line of rail- way subject to the provisions of the Indian Railways Act, 1890, and includes	„

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SCHEDULE IV.—(IMPORT) TARIFF—contd.

GENERAL DUTIES—contd.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—contd.		Rs. A.	
	<i>Railway Material—contd.</i>			
	a railway constructed in a Native State under the suzerainty of Her Majesty, and also such tramways as the Governor-General in Council may, by notification in the Gazette of India, specifically include therein* ... ..	...	...	Free.
94	<i>Seeds—</i>			
	Castor	cwt.	5 0†	Five per cent.
	Cummin	"	24 0†	"
	" black	"	24 0†	"
	Linseed	"	7 8†	"
	Methi	"	4 8†	"
	Mustard, rape or sarson... ..	"	6 0†	"
	Poppy	"	8 8†	"
	Quince, bihidána... ..	"	60 0†	"
	Sozirá	"	24 0†	"
	Til or jinjili	"	7 0	"
	All other sorts ... ..	...	<i>ad valorem</i>	"
95	<i>Shells and Cowries—</i>			
	Chanks—large shells, for cameos	hundred	7 0	"
	" white, live	"	8 0	"
	" " dead	"	4 0	"
	Cowras	"	0 10	"
	Cowries, bazar, common	cwt.	3 8†	"
	" Maldivé	"	8 0†	"
	" sankhla	"	70 0	"
	" yellow, superior quality	"	4 0†	"
	Mother-of-pearl, nacre	"	45 0	"
	Nakhla	"	60 0	"
	Tortoise-shell	lb	10 0†	"
	" nakh	"	4 0†	"
	All other sorts, including articles made of shell, not otherwise described ... ..	...	<i>ad valorem</i>	"
96	<i>Ships and other Vessels for inland and harbour navigation, including steamers, steam-launches, boats, and barges, imported entire or in sections ... ..</i>	...	...	Free.

* For notification issued under this power in respect of certain steam-tramways, see *Gazette of India*, 1896, Part I, p. 454, and *ibid*, 1898, Part I, p. 177.

† For revised valuation, see *Gazette of India*, 1898, Part I, p. 255.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.***Act VIII
of
1894.****GENERAL DUTIES—*contd.***

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—<i>contd.</i>		Rs. A.	
97	<i>Silk, and articles made of Silk—</i>			
	Floss	lb	7 8*	Five per cent.
	Piece-goods ... ..	...	<i>ad valorem</i>	"
	Raw silk—			
	Chaharam, Cochin-China, and yel- low Shanghai	lb	4 8	"
	Mathow	"	3 4*	"
	Other kinds of China	"	6 8*	"
	Waste and Kachra	"	1 4	"
	Panjam	"	2 0*	"
	Persian	"	5 0	"
	Siam	"	3 0*	"
	Produced from the tasar or other wild worm	"	4 0*	"
	Sewing thread, China... ..	"	9 0*	"
	All other sorts, including cocoons ...	...	<i>ad valorem</i>	"
98	<i>Sizing for cotton, paper, or any other material</i> ... ..	...	"	"
99	<i>Soap</i> ... ..	...	"	"
100	<i>Specimens illustrative of Natural Science, including also antique coins and medals</i> ... ..	...	...	Free.
101	<i>Sponge and Sponges</i> ... ..	...	<i>ad valorem</i>	Five per cent.
102	<i>Starch</i> ... ..	...	"	"
103	<i>Stationery, excluding paper (for which see No. 82)</i> ... ..	...	"	"
104	<i>Stone and Marble, and articles made of stone and marble</i> ... ..	...	"	"
105	<i>Straw Plaiting, and articles made of straw, not otherwise described...</i> ...	...	"	"
106	<i>Tallow and Grease, including stearine</i> ...	cwt.	20 0	"
107	<i>Tea-Chests of metal or wood, whether im- ported entire or in sections, provided that the Customs-Collector is satisfied that they are imported for the purpose of the packing of tea for transport in bulk</i>	Free.

* For revised valuation see *Gazette of India*, 1898, Part I, p. 255.

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SCHEDULE IV.—(IMPORT TARIFF)—concl'd.

GENERAL DUTIES—concl'd.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—concl'd.		Rs. A.	
108	<i>Textile Fabrics</i> not otherwise described...	...	<i>ad valorem</i>	Five per cent.
109	<i>Toilet Requisites</i> not otherwise described..	...	"	"
110	<i>Toys</i> , including toy-books, and requisites for all games ... ..	...	"	"
111	<i>Umbrellas</i> , parasols, and sunshades of all kinds ... ..	...	"	"
112	<i>Vulcanite and Ebonite</i> , articles made of, not otherwise described ... ..	...	"	"
113	<i>Walking Sticks</i> and sticks for umbrellas, parasols, and sunshades, of all kinds, mounted and unmounted, driving, riding, and other whips, fishing rods and lines ... ..	...	"	"
114	<i>Wax</i> , and articles made of wax, excluding candles (for which see No. 31) ...	...	"	"
115	<i>Wood and timber</i> (except fire-wood, which is free), and articles made of wood not otherwise described ... ..	...	"	"
116	<i>Wool</i> , raw ... ..	...	...	Free.
	„ articles made of, including felt ...	...	<i>ad valorem</i>	Five per cent.
117	<i>All other articles</i> manufactured or unmanufactured, not described in this Schedule ... ..	...	"	"

*** SCHEDULE V.—(EXPORT TARIFF).**

Name of Article.	Rate of duty.
<i>Rice</i> , husked or unhusked, including <i>rice flour</i> , but not including <i>rice-bran</i> and <i>rice-dust</i> , which are free.	Three annas per Indian maund of 82½ lb. avoirdupois weight.

*This Schedule was substituted for the original Schedule by the Tariff Act (1894) Amendment Act, 1896 (III of 1896.)

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THE PRISONS.

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THE SCHEDULE.

ENACTMENTS REPEALED

**Act IX
of
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ACT IX OF 1894.*

RECEIVED THE G.-G.'s ASSENT ON THE 22ND MARCH 1894.

An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Prisons Act, 1894.

(2) It extends to the whole of British India, inclusive of † . . . British Baluchistan, the Santhal Parganas and the Pargana of Spiti ; and

(3) It shall come into force on the first day of July, 1894.

(4) Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of Bombay Act II of 1874, ‡ as amended by subsequent enactments.

§ 2. (1) On and after the said first day of July, 1894, the enactments mentioned in the schedule shall be repealed to the extent specified in the fourth column thereof.

Repeal.

(2) But all rules and appointments made, directions given and orders issued under any of those enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.

* For Statement of Objects and Reasons, see *Gazette of India*, 1894, Part V, p. 14 ; for Report of the Select Committee, see *ibid.*, p. 63 ; and for Proceedings in Council, see *ibid.*, Part VI, pp. 10, 21, 93, 126 and 139.

The Act was declared in force in Upper Burma, by the Burma Laws Act, 1898 (XIII of 1898), Burma Code, Ed. 1899.

† The words " Upper Burma " were repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule.

‡ Printed, Bombay Code, Vol. II, Ed. 1896, p. 185.

§ So much of this section and of the Schedule, as relates to the Upper Burma Laws Act, 1886 (XX of 1886) has been repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

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Definitions.

3. In this Act—

(1) “prison” means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(a) any place for the confinement of prisoners who are exclusively in the custody of the police ;

(b) any place specially appointed by the Local Government under section 541 of the Code of Criminal Procedure, 1882* ; or

(c) any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail ;

(2) “criminal prisoner” means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial :

(3) “convicted criminal prisoner” means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882,* or under the Prisoners Act, 1871 :

(4) “civil prisoner” means any prisoner who is not a criminal prisoner :

(5) “remission system” means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails :

(6) “history-ticket” means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder :

(7) “Inspector-General” means the Inspector-General of Prisons :

(8) “Medical Subordinate” means an Assistant Surgeon, Apothecary or qualified Hospital Assistant : and

(9) “prohibited article” means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

4. The Local Government shall provide, for the prisoners in the territories under such Government, accommodation for prisoners. in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

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5. An Inspector-General shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under such Government.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Local Government thinks necessary :

Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor-General in Council, declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent.

7. Whenever it appears to the Inspector-General that the number of Temporary 'accommodation for prisoners. prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

8. All officers of a prison shall obey the directions of the Superintendent ; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 60.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.*

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10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison : nor shall he derive any benefit, directly or indirectly from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Officers not to be interested in prison-contracts.

Superintendent.

11. (1) Subject to the orders of the Inspector-General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

Superintendent.

(2) Subject to such general or special directions as may be given by the Local Government, the Superintendent of a prison other than a central prison or a prison situated in a presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector-General all such orders and the action taken thereon.

Records to be kept by Superintendent.

12. The Superintendent shall keep, or cause to be kept, the following records :—

- (1) a register of prisoners admitted ;
 - (2) a book showing when each prisoner is to be released ;
 - (3) a punishment-book for the entry of the punishments inflicted on prisoners for prison-offences ;
 - (4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison ;
 - (5) a record of the money and other articles taken from prisoners ;
- and all such other records as may be prescribed by rules under section 59 or section 60.

Medical Officer.

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Local Government under section 60.

Duties of Medical Officer.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

Officer to report cases.

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This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector-General for information.

15. On the death of any prisoner, the Medical Officer shall forthwith
Report on death of pri- record in a register the following particulars, so
soner, far as they can be ascertained, namely :—

- (1) the day on which the deceased first complained of illness or was observed to be ill,
- (2) the labour, if any, on which he was engaged on that day,
- (3) the scale of his diet on that day,
- (4) the day on which he was admitted to hospital,
- (5) the day on which the Medical Officer was first informed of the illness,
- (6) the nature of the disease,
- (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
- (8) when the prisoner died, and
- (9) (in cases where a *post-mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

Jailer.

16. (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the Inspector-General's sanction in writing, be concerned in any other employment.

Jailer to give notice of death of prisoner.

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Jailer to be present at night.

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20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Powers of Deputy and Assistant Jailers.

Subordinate Officers.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Duties of gate-keeper.

22. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

Subordinate officers not to be absent without leave.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

Convict officers.

CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

24. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Prisoners to be examined on admission.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

25. All money or other articles in respect whereof no order of a competent court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Effects of prisoners.

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Removal and discharge
of prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.

DISCIPLINE OF PRISONERS.

Separation of prisoners.

27. The requisitions of this Act with respect to the separation of prisoners are as follows :—

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners :

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not :

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners : and

(4) civil prisoners shall be kept apart from criminal prisoners.

28. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Association and segregation
of prisoners.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Solitary confinement.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer, and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

Prisoners under sentence
of death.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

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CHAPTER VI.

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessities, but subject to examination and to such rules as may be approved by the Inspector-General.

Maintenance of certain prisoners from private sources.

32. No part of any food, clothing, bedding or other necessities belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Restriction on transfer of food and clothing between certain prisoners

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

Employments of civil prisoners.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earning; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

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35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not to be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

36. Provision shall be made by the Superintendent for the employment of all criminal prisoners (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII.

HEALTH OF PRISONERS.

37. (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the Local Government may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been

or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

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Hospital.

39. In every prison an hospital or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

VISITS TO PRISONERS.

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

41. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Local Government may direct.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

42. Whoever, contrary to any rule under section 60, introduces or removes or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article, to be introduced into or removed from any prison to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

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43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

CHAPTER XI.

PRISON-OFFENCES.

45. The following acts are declared to be prison-offences when committed by a prisoner :—

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence ;
- (2) any assault or use of criminal force ;
- (3) the use of insulting or threatening language ;
- (4) immoral or indecent or disorderly behaviour ;
- (5) wilfully disabling himself from labour ;
- (6) contumaciously refusing to work ;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority ;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment ;
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment ;
- (10) wilful damage to prison-property ;
- (11) tampering with or defacing history-tickets, records or documents ;
- (12) receiving, possessing or transferring any prohibited article ;
- (13) feigning illness ;
- (14) wilfully bringing a false accusation against any officer or prisoner ;

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- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official; and
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

- (1) a formal warning :

Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket ;

- (2) change of labour to some more irksome or severe form ;
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment ;
- (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor-General in Council ;
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months ;
- (6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor-General in Council ;
- (7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor-General in Council ;

- (8) separate confinement for any period not exceeding six months :

Explanation.—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners ;

- (9) penal diet,—that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Local Government :

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Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week ;

(10) cellular confinement for any period not exceeding fourteen days :

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement :

Explanation.—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners ;

(11) solitary confinement for any period not exceeding seven days :

Provided that after each period of solitary confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or cellular confinement :

Explanation.—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners ;

(12) penal diet as defined in clause (9) combined with solitary confinement as defined in clause (11) ;

(13) whipping, provided that the number of stripes shall not exceed thirty :

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

47. Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely :—

Plurality of punishments
under section 46.

(1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section ;

(2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement ;

(3) solitary confinement shall not be combined with cellular confinement or with separate confinement, nor cellular confinement with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable ;

- (4) whipping shall not be combined with any other form of punishment except cellular or separate confinement and loss of privileges admissible under the remission system.

48. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.

Award of punishments
under sections 46 and 47.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

49. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

Punishments to be in
accordance with foregoing
sections.

50. (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46 clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

Medical Officer to certify
to fitness of prisoner for
punishment.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

51. (1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

Entries in punishment-
book.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

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(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

52. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, if not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46 :

Procedure on committal of heinous offence.
Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the first class : and

Provided also that no person shall be punished twice for the same offence.

53. (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

Whipping.
(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

54. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or law-ful order may by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall under this section be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

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55. A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector-General with the sanction of the Local Government, so confine them.

57. (1) Prisoners under sentence of transportation may, subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector-General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector-General may sanction such retention accordingly.

58. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

59. The Governor-General in Council may for any part of British India, and each Local Government with the previous sanction of the Governor-General in Council may for the territories under its administration, make rules consistent with this Act—

- (1) defining the acts which shall constitute prison-offences ;
- (2) determining the classification of prison-offences into serious and minor offences ;
- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof .

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- (4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison-offence ;
- (5) for the award of marks and the shortening of sentences ;
- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape ;
- (7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released ;
- (8) regulating the transfer from one part of British India to another of prisoners whose term of transportation or imprisonment is about to expire ; and,
- (9) generally, for carrying into effect the purposes of this Act.

Power of Local Government to make rules.

60. The Local Government may, subject to the control of the Governor-General in Council, make rules * consistent with this Act—

- (a) for the classification of prisons, and description and construction of wards, cells and other places of detention ;
- (b) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons ;
- (c) for the Government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act ;
- (d) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost ;
- (e) for the employment, instruction and control of convicts within or without prisons ;
- (f) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited ;
- (g) for classifying and prescribing the forms of labour and regulating the periods of rest from labour ;

* For rules made by the Government of Bombay for the classification and treatment of prisoners under Bombay Act II of 1874, printed, Bombay Code, Vol. II, Ed. 1896, p. 185, which are kept in force by this Act, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1897, pp. cxlix and cliv.

For rules regarding Government prisons in the Central Provinces made under Act XXVI of 1870 and kept in force by this Act, *see* Central Provinces List of Local Rules and Orders Ed. 1896, p. 59.

For rules for the management and superintendence of jails in the Madras Presidency, *see* Madras List of Local Rules and Orders, Ed. 1898, p. 251, and for notification prescribing a new Jail Code, *see* *ibid.*

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- (h) for regulating the disposal of the proceeds of the employment of prisoners ;
- (i) for regulating the confinements in fetters of prisoners sentenced to transportation ;
- (j) for the classification and the separation of prisoners ;
- (k) for regulating the confinement of convicted criminal prisoners under section 28 ;
- (l) for the preparation and maintenance of history-tickets ;
- (m) for the selection and appointment of prisoners as officers of prisons ;
- (n) for rewards for good conduct ;
- (o) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire ;
- (p) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons ;
- (q) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends ;
- (r) for the appointment and guidance of visitors of prisons ;
- (s) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882,* and to the officers employed, and the prisoners confined, therein ; and,
- (t) generally, in regard to the admission, custody, employment, dieting, treatment and release of prisoners, and for other purposes consistent with this Act.

61. Copies of rules, under sections 59 and 60 so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

Exhibition of copies of rules.

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the Local Government may appoint in this behalf either by name or by his official designation.

Exercise of powers of Superintendent and Medical Officer.

* now the Code of Criminal Procedure, 1898 (Act V of 1898).

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THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
<i>Acts of the Governor-General in Council.</i>			
1856	VIII	... An Act for the better control of the jails within the Presidency of Bombay.	So much as has not been repealed.
1870	XXVI	... Prisons Act, 1870 ...	So much as has not been repealed.
1871	XV	... Laws Local Extent Act, 1874.	So much of Part (b) of the third schedule as relates to Act VIII of 1856.
*1878	XIV	... An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 2.
† 1891	XII	... Repealing and Amending Act, 1891.	So much of the second schedule as relates to Acts VIII of 1856 and XXVI of 1870.
<i>Acts of the Governor of Fort St. George in Council.</i>			
1869	V	... Madras Jails Act, 1869 ...	So much as has not been repealed.
1882	VII	... Madras Jails Act Amendment Act, 1882.	The whole.
1889	II ...	... An Act to amend the Madras Jails Act, 1869.	The whole. "
<i>Acts of the Governor of Bombay in Council.</i>			
‡ 1874	II ...	... An Act for the regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein.	So much as has not been repealed except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882.
§ 1882	II ...	... An Act to amend Bombay Act II of 1874.	Section 3.
1883	IV ...	... An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code.	The whole.

* Printed, N.-W. P. and Oudh Code, Ed. 1892, p. 339.

† The entry repealing that portion of the Upper Burma Laws Act, 1886 (XX of 1886), which relates to Act XXVI of 1870 was repealed by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed.

Printed Bombay Code, Vol. II, Ed. 1896, p. 185.

§ Printed, Bombay Code, Vol. III, Ed. 1896, p. 4.

THE SCHEDULE—*concl'd.***Act XX
of
1894.**

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4

Acts of the Governor of Bombay in Council—concl'd.

1887	I ...	An Act to further amend Bom- bay Act II of 1874.	The whole.
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Acts of the Lieutenant-Governor of Bengal in Council.

1864	II ...	An Act for the regulation of Jails and the enforcement of discipline therein.	So much as has not been repealed.
1865	V ...	An Act to amend Act II of 1864 passed, by the Lieutenant- Governor of Bengal in Coun- cil, and to extend the provi- sions thereof to the Presi- dency Jail.	So much as has not been repealed.

Regulations made under the Statute 33 Victoria, Chapter 3.

*1872	III...	Santhal Parganas Settlement Regulation.	So much of the Schedule (as amended by Regulation III of 1886) as relates to Bengal Acts II of 1864 and V of 1865.
†1874	IX...	Arakan Hill District Laws Re- gulation, 1874.	So much as relates to Act XXVI of 1870.
1875	II ...	Assam Prisons Regulation, 1875.	The whole.
‡1890	I ...	British Baluchistan Laws Regu- lation, 1890.	So much as relates to Act XXVI of 1870.

* Printed, Bengal Code, Vol. I, Ed. 1889, p. 597.

† Printed, Burma Code, Ed. 1889, p. 353.

‡ Printed, Baluchistan Code, Ed. 1890, p. 69.

**Act XII
of
1894.**

ACT XII OF 1894.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH OCTOBER 1894.

An Act to amend the Articles of War for the Government of Her Majesty's Indian Forces.

WHEREAS it is expedient to amend the Articles of War for the Government of Her Majesty's Indian Forces ; It is hereby enacted as follows :—

Title and commencement. 1. (1) This Act may be called the Indian Articles of War Amendment Act, 1894 ; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, fix in that behalf.

2. [The amendments have been incorporated with Indian Articles of War, Act V of 1869. See Vol. I, p. 554.]

**Act XIII
of
1894.**

ACT XIII OF 1894.*

RECEIVED THE G.-G.'S ASSENT ON THE 12TH OCTOBER 1894.

An Act to amend certain enactments relating to the Army.

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing ; It is hereby enacted as follows :—

Title and commencement. 1. (1) This Act may be called the Repealing and Amending (Army) Act, 1894 ; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, fix in that behalf.†

Repeal and amendment of enactments. 2. (1) The enactment specified in the first schedule is hereby repealed to the extent mentioned in the third column thereof.

(2) The enactments specified in the second schedule are hereby modified to the extent and in the manner mentioned in the third column thereof.

* For Statement of Objects and Reasons, see *Gazette of India*, 1894, Part V, p. 134 ; for Report of the Select Committee, see *ibid.*, p. 159 ; and for Proceedings in Council, see *ibid.*, Part VI, pp. 227, 233 and 239.

The Military Lunatics Act, 1877, so far as it is unrepealed, was declared in force in Upper Burma by the Burma Laws Act, 1898 (XIII of 1898).

† The 1st April 1895, see Notification No. 1019, dated 2nd November 1894, *Gazette of India*, 1894, Part I, p. 603.

THE FIRST SCHEDULE.

Act XIII
of
1894.

ENACTMENT REPEALED.

Number and year.	Title.	Extent of repeal.
1	2	3

Act of the Governor-General in Council.

XI of 1877	...	Military Lunatics Act, 1877.	In sections 4 and 6 <i>the words</i> divisions or. In section 7 <i>the word</i> division.
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Act XII
of
1894.

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

Number and year.	Title or subject.	Amendments.
1	2	3
<i>Act of the Governor-General in Council.</i>		
XI of 1877	Military Lunatics Act, 1877.	In section 3, <i>for</i> Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force <i>read</i> Army Act ; <i>for</i> military regulations of the Presidency to which he belongs <i>read</i> military regulations in force for the time being ; <i>for</i> one of the Surgeons-General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs <i>read</i> the Principal Medical Officer of Her Majesty's Forces in India, the Surgeon-General with the Government of India, the Surgeon-General with the Government of Madras, the Surgeon-General with the Government of Bombay, or the Principal Medical Officer of the " Command " to which the said lunatic belongs ; <i>and for</i> such Surgeon-General <i>and</i> the Surgeon-General <i>read</i> such Principal Medical Officer or Surgeon-General.
		In sections 3, 6 and 7, <i>for the</i> local military regulations, <i>wherever they occur, read</i> military regulations.
<i>Regulations of the Madras Code.</i>		
* VII of 1808	... Power to establish martial law.	In the title, in the first place in which the words occur in the preamble, in section 2 and in section 4, <i>for</i> Governor in Council <i>read</i> Governor-General in Council.
† VIII of 1817	... Sepoy Malguzars . . .	In the title, <i>for</i> on the military establishment of the Presidency of Fort St. George <i>read</i> in the Madras Command. In section 9, clause <i>first, for</i> on the military establishment under the Presidency of Fort St. George <i>read</i> in the Madras Command.

* Printed, Madras Code, Ed. 1888, p. 44.

† Printed, Madras Code, Ed. 1888, p. 75.

ACT I OF 1895.*

RECEIVED THE G.-G.'S ASSENT ON THE 4TH JANUARY 1895.

An Act to amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows :—

Title and commencement. **1.** (1) This Act may be called the Presidency Small Cause Courts Act, 1895; and
(2) It shall come into force on the first day of April 1895.

Amendment of section 6, Act XV, 1882. **2.** In section 6 of the Presidency Small Cause Courts Act, 1882, hereinafter referred to as "the said Act," after the words "Code of Civil Procedure" the following shall be added, namely :—

"and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879."

Amendment of section 7, Act XV, 1882. **3.** (1) For the proviso to the first paragraph of section 7 of the said Act the following shall be substituted, namely :—

"Provided that no person shall be appointed to be a Judge of such Court, or be authorized to exercise the powers of a Judge of such Court, unless he is—

- (a) an advocate of a High Court of Judicature established under the Indian High Courts Act, 1861,† or
- (b) a vakil or attorney of any such High Court, or
- (c) a Judge of a Court of Civil Judicature of not less than five years' standing :

and that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts."

(2) The last paragraph of section 7 of the said Act is hereby repealed.

Insertion of new section after section 8, Act XV, 1882. **4.** After section 8 of the said Act the following shall be inserted, namely :—

. ‡

For Statement of Objects and Reasons, see *Gazette of India*, 1893, Part V, p. 9; for Report of the Select Committee, see *ibid.*, 1894, Part V, p. 103; for Proceedings in Council, see *ibid.*, 1893, Part VI, pp. 4 and 76; *ibid.*, 1894, Part VI, pp. 2 and 209; *ibid.*, 1895, Part VI, p. 29.

† Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 713.

‡ A new section 8A has since been substituted in Act XV of 1882 for the section inserted by this Act, see s. 3 of the Presidency Small Cause Courts Act, 1899 (III of 1899).

**Act I
of
1895.**

Substitution of new section for section 9, Act XV, 1882, and temporary continuance of existing procedure and practice.

5. For section 9 of the said Act the following shall be substituted, namely :—

Procedure and practice of Small Cause Court.

“ 9. (1) The High Court may from time to time, by rules having the force of law,—

(a) prescribe the procedure to be followed and the practice to be observed by the Small Cause Court either in supersession of or in addition to any provisions which were prescribed with respect to the procedure or practice of the Small Cause Court on or before the thirty-first day of December, 1894, in or under this Act or any other enactment for the time being in force, and

(b) cancel or vary any such rule or rules.

“ Rules made under this section may provide, among other matters, for the exercise by one or more of the Judges of the Small Cause Court of any powers conferred on the Small Cause Court by this Act, or any other enactment for the time being in force.

The law, and any rules and declarations made, or purporting to be made, thereunder, with respect to procedure or practice, in force or treated as in force in the Small Cause Court on the thirty-first day of December, 1894, shall be in force, unless and until cancelled or varied by rules made by the High Court under this section.”

Addition to section 14, Act XV, 1882.

6. To section 14 of the said Act the following shall be added, namely :—

“ *Explanation.*—For the purposes of this section an application for possession under section 41 shall be deemed to be a suit.”

Addition to section 18, Act XV, 1882.

7. To section 18 of the said Act the following proviso shall be added immediately before the first *explanation*, namely :—

“ Provided that where the cause of action has arisen wholly within the local limits aforesaid, and the Court refuses to give leave for the institution of the suit, it shall record in writing its reasons for such refusal.”

Addition to section 18, Act XV, 1882.

8. After section 18 of the said Act the following shall be added, namely :—

“ 8A. The Small Cause Court may allow a plaintiff at or before the first hearing of a suit in which a joint and several liability is alleged on a cause of action arising either wholly or in part within the local limits of the jurisdiction of the Court to abandon the suit as against any defendant who

Plaintiff may abandon suit against defendant resident out of jurisdiction.

does not reside or carry on business or personally work for gain within such local limits, and to sue for a decree against such defendants only as do so reside, carry on business or personally work for gain."

**Act I
of
1895.**

Addition to section 19,
Act XV, 1882.

9. To section 19 of the said Act the following shall be added, namely :—

"9A. Whenever the Court finds that for want of jurisdiction it cannot finally determine the question at issue in the
Return of plaint. suit, it may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the question. When the Court so returns a plaint, it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it may think just, and the Court shall for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of defect of jurisdiction. When a plaint so returned is afterwards presented to a High Court, credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are credited to the Government."

10. In section 21 of the said Act, after the words "or value thereof" the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be inserted.
Amendment of section 21, Act XV, 1882.

11. In section 22 of the said Act, for the words "two thousand" the words "one thousand" shall be substituted.
Amendment of section 22, Act XV, 1882.

12. Section 23 of and the second schedule to the said Act are hereby repealed.
Repeal of Act XV, 1882.

13. For Chapter VI of the said Act the following shall be substituted, namely :—
Substitution of new Chapter for Chapter VI, Act XV, 1882.

" CHAPTER VI.

" NEW TRIALS AND APPEALS.

" 37. Save as otherwise provided by this Chapter or by any other enactment for the time being in force, every decree and order of the Small Cause Court in a suit shall be final and conclusive.
General finality of decrees and orders of Small Cause Court.

" 38. Where a suit has been contested, the Small Cause Court may, on the application of either party, made within eight days from the date of the decree or order in the suit (not being a decree passed under section
of contested

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of
1895.**

522 of the Code of Civil Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings.

*“ Explanation.—*Every suit shall be deemed to be contested in which the decree is made otherwise than by consent of or in default of appearance by the defendant.

“ 39. (1) In any suit instituted in a Small Cause Court in which the amount or value of the subject-matter exceeds the sum of one thousand rupees, the defendant or any one of the defendants may, before the day fixed by the summons for the appearance of the defendant or within eight days after the service of the summons on him, whichever period shall last expire, apply *ex parte* on an affidavit setting forth the facts on which he relies for his defence to a Judge of the High Court for an order removing the cause into the High Court.

“ (2) Unless the Judge is of opinion that the application has been made solely for the purpose of delay, the applicant shall be entitled to such order as of right ; but it shall be lawful for the Judge, if he shall think fit, in and by such order to require the applicant to give security to a reasonable amount to be specified in the order for the payment of any costs which may become payable by him to the plaintiff in respect of the said suit, and such Judge may also, if he shall think fit, declare that the removal directed by such order shall be conditional upon the completion of such security within a reasonable time to be prescribed in the order.

“ (3) If the applicant fail or neglect to complete the required security (if any) within the prescribed time (if any), the said order shall be discharged and the suit shall proceed in the Small Cause Court as if such order had never been made.

“ (4) If the plaintiff in any case which has been removed under this section into the High Court has abandoned a portion of his claim in order to be able to bring the suit within the jurisdiction of a Small Cause Court, he shall be permitted to revive the portion of his claim so abandoned.

“ 40. (1) When a suit has been removed into the High Court under the last foregoing section, it shall be heard and disposed of by such Court in the exercise of its original jurisdiction, and the said Court shall have all the same powers and jurisdiction in respect thereof as if it had been originally instituted in such Court.

“ (2) In every suit so removed as aforesaid the affidavit filed under section 39, sub-section (1), shall be treated as a written statement of the defendant tendered under section 110 of the Code of Civil Procedure unless the Court shall otherwise order.

“(3) In every suit so removed as aforesaid credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are payable to the Government.”

**Act II
of
1895.**

ACT III OF 1895.*

**Act III
of
1895.**

RECEIVED THE G.-G.'S ASSENT ON THE 8TH FEBRUARY 1895.

An Act to amend the Indian Penal Code, Act VI of 1864, and the Indian Post-office Act, 1866. †

WHEREAS it is expedient to amend the Indian Penal Code, Act VI of 1864, and the Indian Post-office Act, 1866; † It is here by enacted as follows :—

Indian Penal Code.

Substitution of new sec-

1. For section 182 of the Indian Penal Code the following shall be substituted, namely :—

False information, with intent to cause public servant to use his lawful authority to the injury of another person.

“ 182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

* Short title, “The Indian Criminal Law Amendment Act, 1895.” See the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1894, Part V, p. 95; for Report of the Select Committee, see *ibid.*, 1895, Part V, p. 19; for Proceedings in Council, see *ibid.*, 1894, Part VI, p. 151; *ibid.*, 1895, Part VI, pp. 37 and 116 to 124.

This Act is in force in Upper Burma (except the Shan States) in so far as it amends Act XLV of 1860, which original Act as amended to date was declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, see *Gazette of India*, 1895, Part I, p. 310.

So far as this Act amends the Whipping Act, 1864 (VI of 1864), it has been extended to the Districts of Sylhet, Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Cachar (excluding the North Cachar Hills) and Goalpara (excluding the Eastern Dvars). See *Gazette of India*, 1896, Part I, p. 302.

† Act XIV of 1866 has been repealed by the Indian Post-office Act, 1898 (VI of 1898) which has been declared in force in Upper Burma (except the Shan States) by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898).

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of
1895.**

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

“ Illustrations.

“(a) A informs a Magistrate that Z, a police-officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

“(b) A falsely informs a public servant that Z has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

“(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make inquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

Addition of section to
Chapter XII, Act XLV,
1860.

2. To Chapter XII of the said Code the following shall be added, namely :—

Prohibition of fictitious
stamps.

“ 263A. (1) Whoever—

(a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(b) has in his possession, without lawful excuse, any fictitious stamp,
or

(c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,
shall be punished with fine which may extend to two hundred rupees.

“(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

“(3) In this section ‘fictitious stamp’ means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise of any stamp issued by Government for that purpose.

“(4) In this section and also in sections 255 to 263, both inclusive, the word ‘Government,’ when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.”

Substitution of new section for section 294, Act XLV, 1860.

3. For section 294 of the said Code the following shall be substituted, namely :—

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of
1895.

Obscene acts and songs.

“ 294. Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”

..... section
..... XLV,
1860.

4. After section 477 of the said Code the following shall be added, namely :—

“ 477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Falsification of accounts.

“ *Explanation.*—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.”

Act VI of 1864.

Substitution of new sections for sections 2, 3 and 4, Act VI, 1864.

5. For sections 2, 3 and 4 of Act VI of 1864 (*an Act to authorize the punishment of whipping in certain cases*) the following shall be substituted, namely :—

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

“ 2. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say :—

Group A.

(1) theft, as defined in section 378 of the said Code ;

(2) theft in a building, tent or vessel, as defined in section 380 of the said Code ;

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(3) theft by a clerk or servant, as defined in section 381 of the said Code ;

(4) theft after preparation for causing death or hurt, as defined in section 382 of the said Code ;

Group B.

(5) extortion by threat, as defined in section 388 of the said Code ;

(6) putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code ;

Group C.

(7) dishonestly receiving stolen property, as defined in section 411 of the said Code ;

(8) dishonestly receiving property stolen in the commission of a dacoity, as defined in section 412 of the said Code ;

Group D.

(9) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section ;

(10) lurking house-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

“ 3. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence or of any offence included in the same group of offences, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.

“ 4. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, or of any offence included in the same Group of offences, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say :—

Group A.

(1) giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code ;

(2) giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in section 194 of the said Code ;

(3) giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code ;

Group B.

(4) falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the said Code ;

Group C.

(5) assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in section 354 of the said Code ;

(6) rape, as defined in section 375 of the said Code ;

(7) unnatural offences, as defined in section 377 of the said Code ;

Group D.

(8) robbery or dacoity, as defined in sections 390 and 391 of the said Code ;

(9) attempting to commit robbery, as defined in section 393 of the said Code ;

(10) voluntarily causing hurt in committing robbery, as defined in section 394 of the said Code ;

Group E.

(11) habitually receiving or dealing in stolen property, as defined in section 413 of the said Code ;

Group F.

(12) forgery, as defined in section 463 of the said Code ;

(13) forgery of a document, as defined in section 466 of the said Code ;

(14) forgery of a document, as defined in section 467 of the said Code ;

(15) forgery for the purpose of cheating, as defined in section 468 of the said Code ;

(16) forgery for the purpose of harming the reputation of any person, as defined in section 469 of the said Code ;

Group G.

(17) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section ;

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(18) lurking house-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section."

6. *Repealed by Act V of 1900, s. 4.*

7. *The portion relating to the Indian Post-office Act, 1866 (XIV of 1866) has been repealed by the Indian Post-office Act, 1898 VI of 1898).*

ACT VII OF 1895.*

RECEIVED THE G.-G.'S ASSENT ON THE 1st MARCH 1895.

An Act to amend certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872.†

WHEREAS it is expedient to amend certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872 : † It is hereby enacted as follows :—

Code of Civil Procedure.

1. (1) In the third paragraph of section 39 of the said Code, between
Amendment of section 39. the words "of any High Court established by Royal Charter" and the words "shall be required," the words "or of the Chief Court of the Punjab" shall be inserted.

(2) To the said section the following *explanation* shall be added, namely :—

"*Explanation.*—For the purposes of the enrolment of advocates the High Court of Bombay shall be at liberty to treat the Sadr Court of Sind as within the local limits of its jurisdiction."

Amendment of section 180, Act XIV, 1882. 2. For the first and second paragraphs of section 180 of the said Code the following shall be substituted, namely :—

* Short title, "The Panjab Laws Act Amendment Act, 1895," see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1894, part V, P. 108 ; for preliminary Report of the Select Committee, see *ibid.*, 1894, Part V, p. 164 ; for Report of the Select Committee, see *ibid.*, 1895, Part V, p. 43 ; for Proceedings in Council, see *ibid.*, 1894, Part VI, pp. 220, 229 and 241 ; *ibid.*, 1895, Part VI, pp. 34, 110, 142 and 146 to 155.

So far as it amends Act XIV of 1882, this Act is in force in Upper Burma (except the Shan States), the original Act having been declared in force there by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886). Printed, Bengal Code, Vol. I, Ed. 1889, see *Gazette of India*, 1895, Part I, p. 310.

† See the revised edition published by the Legislative Department, as modified up to July 1891.

“ The other party shall then state his case and produce his evidence (if any), and may then address the Court generally on the whole case. **Act VIII of 1895.** ”

“ The party beginning may then reply generally on the whole case.”

3 & 4. [*Amendment of the Punjab Laws Act, 1872 (IV of 1872)*] not reproduced here as it affects a Local Act; but see the revised edition of the Act as published by the Legislative Department, modified up to July 1891.

ACT VIII OF 1895.

RECEIVED THE G.-G.'S ASSENT ON THE 1ST MARCH 1895.

An Act to amend Act V of 1861 (an Act for the Regulation of Police).

WHEREAS it is expedient to amend Act V of 1861 (*an Act for the Regulation of Police*); It is hereby enacted as follows:—

1. In section 1 of the said Act the following shall be inserted between Addition to interpreta- the interpretations of the words “ general police- tion-clause, section 1, Act district ” and the word “ property,” namely :— V, 1861.

“ The words ‘ District Superintendent ’ and ‘ District Superintendent of Police ’ shall include any Assistant District Superintendent or other person appointed by general or special order of the Local Government to perform all or any of the duties of a District Superintendent of Police under this Act in any district.”

* Short title, “ The Police Act (1861) Amendment Act, 1895,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1894, Part V, p. 166; for Report of the Select Committee, see *ibid.*, 1895, Part V, p. 35; for Proceedings in Council, see *ibid.*, 1894, Part VI, p. 242; *ibid.*, 1895, Part VI, pp. 71, 140 and 156.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, V of 1861, which has been declared in force there by the Burma Laws Act, 1898 (XIII of 1898), see s. 4 and the First Schedule to that Act.

In the Shan States, excluding Khamti Long and Mong Mit, as being part of the original Act there extended by the Shan States Laws and Criminal Justice Order, 1895, see *Burma Gazette*, 1895, Part I, pp. 262 and 542, respectively.

The Act is also in force in the Porahat Estate in the Singbhum District, as being part of the original Act, V of 1861, declared in force there by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1897, Part I, p. 1059.

Ss. 15, 15A, 16, 30, 30A, 31 and 32 of the original Act as amended by this Act have been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the Schedule Districts in Ganjam and Vizagapatam, see *Gazette of India*, 1898, Part I, p. 872.

Act III of 1895, with the exception of ss. 1, 3, 15 and 16, has in like manner been extended to Coorg, see *Gazette of India*, 1895, Part II, p. 1127.

For rules and orders under the Act, see notes to the original Act, at p. 379 *et seq.* of Vol. I of the General Acts, Ed. 1898.

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1895.**

2. In section 7 of the said Act, in lieu of the words beginning " or fine any police-officer " down to the end of the section, the following shall be substituted, namely :—

Amendment of section 7,
Act V, 1861, respecting
minor punishments.

" or may award any one or more of the following punishments to any police-officer who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely :—

- (a) fine to any amount not exceeding one month's pay ;
- (b) confinement to quarters for a term not exceeding fifteen days, with or without punishment drill, extra guard, fatigue or other duty ;
- (c) deprivation of good-conduct pay ;
- (d) removal from any office of distinction or special emolument."

Amendment of section 8,
Act V, 1861, respecting cer-
tificates and suspension.

3. For the second paragraph of section 8 of the said Act, beginning with the words " such certificate shall cease to have effect " and ending with the words " officer empowered to receive the same," the following shall be substituted, namely :—

" Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police-officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

" A police-officer shall not by reason of being suspended from office cease to be a police-officer. During the term of such suspension the powers, functions and privileges vested in him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended."

Substitution of new sec-
tion for section 15, Act V,
1861.

4. For section 15 of the said Act the follow-
ing shall be substituted, namely :—

" 15. (1) It shall be lawful for the Local Government, by proclamation to be notified in the official Gazette, and in such other manner as the Local Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

Quartering of additional
police in disturbed or
dangerous districts.

" (2) It shall thereupon be lawful for the Inspector-General of Police, or other officer authorized by the Local Government in this behalf, with the sanction of the Local Government, to employ any police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

“(3) Subject to the provisions of sub-section (5) of this section, the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation. **Act VIII of 1895.**

“(4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are as aforesaid liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate’s judgment of the respective means within such area of such inhabitants.

“(5) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

“(6) Every proclamation issued under sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Local Government may in each case think fit to direct.

“*Explanation.*—For the purposes of this section, ‘inhabitants’ shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein.

Addition of new sections
after section 15, Act V, 1861.

5. After section 15 of the said Act the following shall be inserted, namely:—

“15A. (1) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct, to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the sub-division of a district within which such area is situated.

“(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Local Government, after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to—

- (a) declare the persons to whom injury has been caused by or has ensued from such misconduct ;
- (b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them ; and

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1895.**

(c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section :

“ Provided that the Magistrate shall not make any declaration or assessment under this sub-section unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

“(3) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.

“(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub-section (2) shall be subject to revision by the Commissioner of the Division or the Local Government, but save as aforesaid shall be final.

“(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

“(6) *Explanation.*—In this section the word ‘inhabitants’ shall have the same meaning as in the last preceding section.”

New section substituted
for section 16, Act V, 1861.

6. For section 16 of the said Act the following shall be substituted, namely :—

“ 16. (1) All moneys payable under sections 13, 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by sections 386 and 387 of the Code of Criminal Procedure, 1882,* for the recovery of fines, or by suit in any competent Court.

“(2) All moneys paid or recovered under sections 13, 14 and 15 shall be credited to a fund to be called ‘The General Police Fund,’ and shall be applied to the maintenance of the police-force under such orders as the Local Government shall pass.

“(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section.”

Addition to section 26,
Act V, 1861.

7. To section 26 of the said Act the following shall be added, namely :—

“(2) The provisions of section 525 of the Code of Criminal Procedure, 1882,* shall be applicable to property referred to in this section.”

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

Substitution of new section for section 27, Act V, 1861.

8. For section 27 of the said Act the following shall be substituted, namely :—

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“ 27. (1) If no person shall within the period allowed claim such property, or the proceeds thereof, if sold, it may, if not already sold under sub-section (2) of the last preceding section, be sold under the orders of the Magistrate of the district.

Confiscation of property if no claimant appears.

“ (2) The sale-proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 26 to which no claim has been established shall be at the disposal of Government.”

Addition to section 29, Act V, 1861, respecting overstay of leave.

9. In section 29 of the said Act, after the words “for the period of two months” the following

“ or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave.”

Substitution of new section for section 30, Act V, 1861,

10. For section 30 of the said Act the following shall be substituted namely :—

“ 30. (1) The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

Regulation of public assemblies and processions, and licensing of the same.

“ (2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the district or of the sub-division of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

“ (3) On such application being made, he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section : Provided that no fee shall be charged on the application for, or grant of, any such license.

“ (4) He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.”

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of
1895.**

Addition of new section after section 30, Act V, 1861.

11. After section 30 of the said Act the following section shall be inserted, namely :—

“30A. (1) Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

Powers with regard to assemblies and processions violating conditions of license.

“(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly.”

12. In section 32 of the said Act, for the word “two,” where it first occurs, the word “three,” and in section 33 of the said Act, for the word “three” the word “four” shall be respectively substituted.

Amendment of sections 32 and 33, Act V, 1861.

13. In section 34 of the said Act, after the words “or in any” the words “open place or” shall be inserted, and for the expression “residents and passengers” the expression “residents or passengers” shall be substituted.

Amendment of section 14, Act V, 1861.

Substitution of new section for sections 37, 38, 39 and 40, Act V, 1861.

14. For sections 37, 38, 39 and 40 of the said Act, the following section shall be substituted, namely :—

“37. The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code, and of sections 386 to 389, both inclusive, of the Code of Criminal Procedure, 1882,* with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before a Magistrate :

Recovery of penalties and fines imposed by Magistrates.

Provided that, notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.”

Substitution of new section for section 46, Act V, 1861.

15. For section 46 of the said following shall be substituted, namely :—

“46. (1) This Act shall not by its own operation take effect in any presidency, province or place. But the Governor-General in Council, by an order to be published in the Gazette of India, may extend the whole or any part of this Act to any

Scope of Act.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898),

presidency, province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, province or place. **Act VIII of 1895.**

“(2) When the whole or any part of this Act shall have been so extended, the Local Government may from time to time, by notification in the official Gazette, make rules consistent with this Act—

(a) to regulate the procedure to be followed by Magistrates and police-officers in the discharge of any duty imposed upon them by or under this Act ;

(b) to prescribe the time, manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon ; and

(c) generally, for giving effect to the provisions of this Act.

“(3) All rules made under this Act may from time to time be amended, added to or cancelled by the Local Government.”

16. All orders heretofore issued by the Governor-General in Council

Saving of orders heretofore issued under section 46, Act V, 1861.

or the Local Government under section 46 of the said Act shall, as far as may be, be deemed to have been issued under the new section substituted

for the same by the last foregoing section.

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of
1895.

ACT IX OF 1895.*

RECEIVED THE G.-G.'S ASSENT ON THE 7TH MARCH 1895.

An Act to confer on Presidency Magistrates and District Magistrates certain powers and authorities in relation to the surrender of fugitive criminals.

WHEREAS by the Extradition Act, 1870,† it is, among other things, enacted that the said Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession, but with the following among other modifications, namely :—

No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorized or required to be done under the said Act by, the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone ;

And whereas by the said Act it is also enacted that, if by any law or ordinance made before or after the passing of the said Act by the Legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or are suspected of being in such possession, Her Majesty may, by the Order in Council applying the said Act in the case of any foreign State, or by any subsequent order, either—

suspend the operation within any such British possession of the said Act or any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer,

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act ;

And whereas the said Extradition Act, 1870,† was amended by the Extradition Act, 1873,‡ which enacted that that Act was to be construed as one with the said Act of 1870,† and that the said two Acts might be cited together as the Extradition Acts, 1870† and 1873 ; ‡,

* For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 6 ; for Proceedings in Council, see *ibid.*, 1895, Part VI, pp. 91 and 216.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898, see the First Schedule, printed, Burma Code, Ed. 1899.

† Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 890.

‡ Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 961.

And whereas it is expedient to provide for the more convenient administration in British India of the said Extradition Acts, 1870* and 1873,† by conferring on Presidency Magistrates and District Magistrates the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in Police Magistrates and Justices of the Peace in the United Kingdom ;

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of
1895.**

It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Extradition (India) Act, 1895 ; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf : ‡

Provided that no such date shall be appointed until after Her Majesty has been pleased by Order in Council to direct that this Act shall have effect in British India as if it were part of the Extradition Act, 1870,* and such Order has been published in the Gazette of India. • •

2. All powers vested in, and acts authorized or required to be done by, a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals in the United Kingdom under the Extradition Acts, 1870* and 1873,† are hereby vested in, and may in British India be exercised and done by, any Presidency Magistrate or District Magistrate in relation to the surrender of fugitive criminals under the said Acts.

* Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 890.

† Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 961.

‡ For notification appointing the 15th of February 1896 as the day on which the Act shall come into force, see *Gazette of India*, 1896, Part I, p. 88.

Act X
of
1895.

ACT X OF 1895.*

RECEIVED THE G.-G.'S ASSENT ON THE 7TH MARCH 1895.

An Act to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction.

WHEREAS it is expedient to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Indian Railway Companies Act 1895.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "railway" means a railway as defined in section 3, clause (4), of the Indian Railways Act, 1890;

(2) "the railway" means the railway in relation to the construction of which interest out of capital is permitted to be paid as hereinafter provided; and

(3) "Railway Company" means a company registered under the Indian Companies Act, 1882, and formed for the purpose of making and working, or making or working, a railway in India, whether alone or in conjunction with other purposes.

3. A Railway Company may pay interest on its paid-up share capital out of capital, for the period, and subject to the conditions and restrictions, in this section mentioned, and may charge the same to capital as part of the cost of construction of the railway:—

Payment of interest out of capital.

(1) Such interest shall be paid only for such period as shall be determined by the Governor-General in Council; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the railway shall be actually completed and opened for traffic.

* For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 25; for Proceedings in Council, see *ibid.*, 1895, Part VI, pp. 128, 213 and 217.

The Act has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

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1895.

- (2) No such payment shall be made unless the same is authorized by the Company's memorandum of association or by a special resolution of the Company.
- (3) No such payment, whether authorized by the Company's memorandum of association or by special resolution as aforesaid, shall be made without the previous sanction of the Governor-General in Council.
- (4) The amount so paid out of capital by way of interest, in respect of any period, shall in no case exceed a sum which shall, together with the net earnings of the railway during such period, make up the rate of four per cent. per annum.
- (5) No such payment of interest shall be made until such Railway Company has satisfied the Governor-General in Council that two-thirds at least of its share capital, in respect whereof interest is to be so paid, has been actually issued and accepted, and is held by shareholders who, or whose representatives, are legally liable for the same.
- (6) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear.
- (7) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.

. A railway in course of construction and intended to be made or worked by a Railway Company in addition to or by way of extension of any railway owned or worked by such Company shall be deemed to be the Railway of such Company for the purposes of this Act, and all the provisions of the last preceding section shall apply to such railway and to the share capital issued for the purpose of its construction.

5. When a Railway Company has power to pay interest under this Act, Notice in prospectus and other documents. notice to that effect shall be given in every prospectus, advertisement or other document inviting subscriptions for shares therein, and in every certificate of such shares.

6. When any interest has been paid by a Railway Company under this Act, the annual or other accounts of such Company shall show the amount on which, and the rate at which, interest has been so paid.

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of
1895.**

7. If by any memorandum of association, articles of association or other document any power of borrowing money is conferred on a Railway Company, or on its Directors, with or without the sanction of any meeting, and if such power of borrowing is limited to an amount bearing any proportion to the capital of such Company, the amount of capital applied or to be applied in payment of interest under this Act shall, for the purpose of ascertaining the extent of such power of borrowing, be deducted from the capital of such Company.

ACT XII OF 1895.*

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1895.

An Act to give power to Companies to make certain alterations in the Instruments under which they are constituted, and to amend the Indian Companies Act, 1882.†

WHEREAS it is expedient to give to companies power to alter the provisions of the instruments under which they are constituted in certain cases ; and whereas it is also expedient to amend section 65 of the Indian Companies Act, 1882 ;† It is hereby enacted as follows :—

Short title and commencement. **1.** (1) This Act may be called the Indian Companies (Memorandum of Association) Act, 1895 ; and

(2) It shall come into force at once.

Sections 3 to 10 to be read with Act VI of 1882. **2.** Sections 3 to 10 (both inclusive) shall be read with and taken as part of the Indian Companies Act, 1882.

Definitions. **3.** In this Act, unless there is something repugnant in the subject or context,—

(1) the expression “ deed of settlement ” includes any contract of copartnery or other instrument constituting or regulating a company and not being an Act of Parliament, a Royal Charter or Letters Patent ; and

* For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 2 ; for Report of the Select Committee, see *ibid.*, 1895, Part V, p. 55 ; for Proceedings in Council, see *ibid.*, 1895, Part V, pp 38, 216, 234 and 263.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

† For extensions of the original Act, see *ibid.*

(2) the expression "High Court" means for the Town of Rangoon the Recorder and elsewhere the High Court as defined in the General Clauses Act, 1868.* **Act XII of 1895.**

4. Subject to the provisions of this Act, a company registered under the Indian Companies Act, 1882,† may, by special resolution, alter the provisions of its memorandum of association or deed of settlement with respect to the objects of the company, so far as may be required for any of the purposes hereinafter specified, or alter the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, either with or without any such alteration as aforesaid with respect to the objects of the company; but in no case shall any such alteration take effect until confirmed on petition by the High Court.

Power for company to alter objects or form of constitution subject to confirmation by High Court.

5. Before confirming any such alteration the High Court must be satisfied—

(a) that sufficient notice has been given to every holder of debentures or debenture stock of the company, and every person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court:

Provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

6. An order confirming any such alteration may be made on such terms and subject to such conditions as to the Court may seem fit, and the Court may make such orders as to costs as it may deem proper.

Power of Court when confirming to impose terms and make order as to costs.

7. The High Court shall, in exercising its discretion under this Act, have regard to the rights and interests of the members of the company, or of any class of those members, as well as to the rights and interests of the creditors, and may, if it shall think fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and the Court may give such directions and make such

Discretion conferred on Court.

* See now the General Clauses Act, 1897 (X of 1897).

† For extensions of the original Act, see *ibid.*

Act XII orders as it may think expedient for the purpose of facilitating any such
of arrangement or carrying the same into effect :
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Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

8. The High Court may confirm, either wholly or in part, any such alteration as aforesaid with respect to the objects of the company if it appears that the alteration is required in order to enable the company—

Ground on which Court may confirm a proposed alteration.

(a) to change the place of the registered office of the company from one part of British India to another ; or

(b) to carry on its business more economically or more efficiently ; or

(c) to attain its main purpose by new or improved means ; or

(d) to enlarge or change the local area of its operation ; or

(e) to carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company ; or

(f) to restrict or abandon any of the objects specified in the memorandum of association or deed of settlement.

9. (1) Where a company has altered the provisions of its memorandum of association or deed of settlement with respect to the place of its registered office or to the objects of the company, or has altered the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, and such alteration has been confirmed by the Court, a certified copy of the order confirming such alteration, together with a printed copy of the memorandum of association or deed of settlement so altered, or together with a printed copy of the substituted memorandum and articles of association (as the case may be), shall be delivered by the company to the Registrar of Joint Stock Companies within three months from the date of the order, and the Registrar shall register the same, and shall certify under his hand the registration thereof, and this certificate shall be conclusive evidence that all the requisitions of this Act with respect to such alteration and the confirmation thereof have been complied with.

Registration of order together with memorandum as altered or substituted memorandum and articles, and consequence thereof.

(2) When any such alteration as aforesaid involves a transfer of the registered office to a part of British India other than that in which the office is at which the company is registered, a certified copy of the order confirming such change shall be delivered by the company to the Registrar of Joint Stock Companies in each of such parts, and each of such Registrars shall register the same, and shall certify under his hand the registration thereof,

and the Registrar for the part from which such office is transferred shall send to the Registrar for the other part all documents relating to the company registered in his office.

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(3) From the date of such registration (but subject to the provisions of this Act) the memorandum or deed of settlement so altered shall be the memorandum of association or deed of settlement of the company, or, as the case may be, such substituted memorandum and articles of association shall apply to the company in the same manner as if the company were a company registered under Part I of the Indian Companies Act, 1882, with such memorandum and articles of association, and the company's deed of settlement shall cease to apply to the company.

(4) For every registration under this section there shall be payable to the Registrar of Joint Stock Companies a fee of five rupees.

10. No such alteration as aforesaid shall have any operation until registration thereof has been duly effected under the last foregoing section, and, if such registration shall not have been effected within three months next after the date of the order of the Court confirming the alteration, such alteration and order and all proceedings connected therewith, shall at the expiration of such period of three months become and be absolutely null and void :

Provided that the Court may, on sufficient cause shown, revive the order on application made within a further period of one month.

11. In section 65 of the Indian Companies Act, 1882, for the words " in such language or languages " the second time they occur, the words " in the English language " shall be substituted.

Amendment of section 65
of Act VI of 1882.

Act XIII
of
1895.

ACT XIII OF 1895.*

RECEIVED THE G.-G.'S ASSENT ON THE 25th JULY 1895.

An Act to amend sections 632 and 652 of the Code of Civil Procedure.

WHEREAS it is expedient to amend sections 632 and 652 of the Code of Civil Procedure ; It is hereby enacted as follows :—

Amendment of section
632, Act XIV, 1882.

1. In section 632 of the said Code, after the word “ chapter ” the words and figures “ and in section 652 ” shall be added.

Amendment of section
652, Act XIV, 1882.

2. To section 652 of the said Code the following shall be added, namely :—

“ Notwithstanding anything in this Code contained, any High Court established under the said Act for establishing High Courts of Judicature in India may make such rules consistent with the Letters Patent establishing it to regulate its own procedure in the exercise of its original civil jurisdiction, as it shall think fit.

“ All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.”

* Short title, “ The Civil Procedure Code Amendment Act, 1895,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 167 ; for Proceedings in Council, see *ibid.*, 1895, Part VI, pp. 325 and 327.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, XIV of 1882, declared in force there by the Burma Laws Act, 1898 (XIII of 1898), printed Burma Code, Ed. 1899.

ACT XIV OF 1895.*

RECEIVED THE G.-G.'S ASSENT ON THE 4TH OCTOBER 1895.

An Act to make better provision for the regulation of Pilgrim Ships.

WHEREAS it is expedient to make better provision for the regulation of pilgrim ships; It is hereby enacted as follows :—

Preliminary.

Title. 1. This Act may be called the Pilgrim Ships Act, 1895.

Extent and application. 2. (1) It extends to the whole of British India, and applies—

(a) to all subjects of Her Majesty within the dominions of Princes and States in India under the suzerainty of Her Majesty ;

(b) to all native Indian subjects of Her Majesty without and beyond British India ; and,

(c) subject to the exceptions mentioned in sub-section (2), to every pilgrim ship as hereinafter defined.

(2) But it does not apply—

(i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Royal Indian Marine Service, or

(ii) to any other ship for the time being in the service of Her Majesty, or

(iii) to any ship-of-war belonging to any Foreign Prince or State, or

(iv) to any ship not being a pilgrim ship.

Commencement. 3. This Act shall come into force on such day as the Governor-General in Council may, by notification in the Gazette of

Repeal of Act X, 1887, so far as regards pilgrim ships.

4. On and from that day nothing contained in the Native Passenger Ships Act, 1887, shall apply to any pilgrim ship.

Definitions.

5. In this Act, unless there is anything repugnant in the subject or context,—

* For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 165 ; for Report of the Select Committee, see *ibid.*, 1895, Part V, p. 177 ; for Proceedings in Council, see *ibid.*, 1895, Part VI, pp. 321, 327, 335 and 349.

† Act XIV of 1895 was brought into force on the 6th day of October 1896, see *Gazette of India*, 1896, Part I, p. 800.

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(1) "pilgrim" means a Muhammadan passenger going to, or returning from, the Hedjaz; but it does not include a child under one year of age, and in the computation of pilgrims for all or any of the purposes of this Act the Governor-General in Council may, by notification in the Gazette of India, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim.

Explanation.—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act :

(2) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez :

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act :

Explanation.—A "pilgrim of the lowest class" is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved :

(3) "voyage" means the whole distance between a pilgrim ship's port or place of departure and her final port or place of arrival :

(4) "Chief Customs-officer" means the chief executive officer of sea customs for any port or place to which this Act applies :

(5) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class : and

(6) "prescribed" means prescribed by rules made by the Governor-General in Council under this Act.

All passengers on pilgrim ships to be deemed pilgrims.

6. Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Act.

Rules for Voyages of Pilgrim Ships.

7. (1) No pilgrim ship shall depart or proceed from, or discharge pilgrims at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

Pilgrim ships to sail only from places appointed by the Government.

(2) After a pilgrim ship has departed or proceeded on a voyage from a port or place so appointed, no person shall be received on board as a pilgrim except at some other port or place so appointed.

8. (1) The master, owner or agent of a pilgrim ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that she is to carry pilgrims, and of her destination, and of the proposed time of sailing.

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(2) The notice shall be given at the original port of departure if in British India and in other cases at the first port at which she touches in British India, not less than three days, and at all other ports of call not less than twenty-four hours, before that time.

9. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Power to enter on and inspect pilgrim ship.

10. (1) No pilgrim ship shall commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

Pilgrim ship not to sail without two certificates.

(2) The officer whose duty it is to grant a port-clearance shall not grant it unless the master holds those certificates.

11. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of pilgrims of each class which she is capable of carrying.

Contents of certificate A.

12. The second of the certificates (hereinafter called "certificate B") shall state—

Contents of certificate B.

- (a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;
- (b) that she has the proper complement of officers and seamen;
- (c) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for pilgrim ships have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the pilgrims on board during the voyage which she is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed;
- (d) that the master holds certificate A;
- (e) that she is propelled principally by steam;
- (f) that she is of the tonnage and steam-power (if any) prescribed;
- (g) that, if she is to carry more than one hundred pilgrims, she has on board the medical officer, or medical officers, required by section 27 and the prescribed attendants;
- (h) such other particulars (if any) as may be prescribed.

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Grant of certificates.

13. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 8.

14. Where the master of a pilgrim ship produces to that officer Substitute for certificate A. either of the following certificates, namely,—

(a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(b) a certificate granted under the authority of a British Indian Government on a date not more than one year before the proposed day of sailing and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the officer may, if the particulars required by section 11 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purpose of this Act.

15. (1) After receiving the notice required by section 8, the officer appointed under that section may, if he thinks fit, Survey of pilgrim ship. cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether she is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims :

Provided that he shall not cause a pilgrim ship holding a certificate mentioned in section 14, clause (a) or clause (b), to be surveyed unless, by reason of her having met with damage or having undergone alterations, or on any other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the conveyance of pilgrims.

(2) If the officer causes a survey to be made of a pilgrim ship holding any such certificate, and the surveyors report that she is seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for such traffic, the expense of the survey shall be paid by the Local Government.

16. (1) The officer authorized to grant a certificate under this Act in Discretion as to grant of certificate. respect of a pilgrim ship shall not grant it unless he is satisfied that she has on board no cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the pilgrims embarked.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold a certificate under this Act.

(3) In the exercise of that discretion such officer shall be subject to the control of the Local Government and of any intermediate authority which that Government may appoint in this behalf.

17. The master or owner of every pilgrim ship shall post up in a conspicuous part of her, so as to be visible to persons on board, a copy of each of the certificates granted under this Act in respect thereof, and shall keep those copies so posted up throughout the voyage.

Copy of certificates to be exhibited.

18. If an officer appointed in this behalf by the Local Government is satisfied that a pilgrim has brought on board a pilgrim ship for his own use food of the prescribed quality and in the prescribed quantity, the requirements of this Act respecting the supply of food for pilgrims shall not apply so far as regards the supply of food for that pilgrim.

Supply by pilgrims of their own food.

19. (1) The Governor-General in Council may by order* prescribe the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under any Act for the regulation of passenger ships) to be available in the between-decks for pilgrims of each class respectively on board pilgrim ships.

Space to be provided for pilgrims.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures :

Provided that the upper-deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit :

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

20. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Disposal of pilgrims' baggage.

* For instance of such order, see notification No. 3145, *Gazette of India*, 1897, Part I, p. 851.

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21. There shall be a regularly appointed hospital on board every pilgrim ship offering such conditions of security health and space and capable of accommodating such number, not exceeding five per cent., of the pilgrims embarked, as may be prescribed.

22. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the officer appointed under section 8, who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

23. The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place at which it may be intended to land pilgrims, and, before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 8.

Pilgrim ship taking additional pilgrims at intermediate place.

24. (1) In either of the following cases, namely,-

(a) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or

(b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 8, and shall furnish an additional statement in duplicate in the prescribed form respecting such additional pilgrims.

(2) All the foregoing provisions of this Act with respect to certificate B and the statement concerning pilgrims to be signed and delivered by the

masters of pilgrim ships shall be applicable to any certificate granted or statement furnished under this section.

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25. The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the officer appointed thereat under section 8.

Statement concerning pilgrims to be delivered before pilgrims disembark in British India.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.

26. Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed.

27. Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried exceed one thousand, a second medical officer s licensed, and also in all cases such attendants as may be prescribed.

Certain pilgrim ships to carry medical officers and attendants.

28. The medical officer or officers of every pilgrim ship shall keep such diaries and shall submit such reports or other returns as may be prescribed.

Medical officers' diaries and reports.

29. Every pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

Pilgrim ships to touch at Aden on the outward voyage.

30. The authority at Aden empowered to grant the certificate required under section 29 may refuse to permit the ship to leave that port if the provisions of this Act or any rule thereunder are not complied with on board such ship.

When authority at Aden may refuse to let ship leave.

31. In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed in

Bond where pilgrim ship proceeds on outward voyage.

Act XIV of 1895. favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship (if the voyage do not commence at Aden) shall touch at Aden on the outward voyage and there obtain the certificate required by section 29, and

(b) that the master and medical officer or officers (if any) shall comply with the provisions of this Act and the rules thereunder.

32. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in British India unless and until he has been medically inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf,* nor until the officer to whom notice has been given under section 8 has given permission for the embarkation of pilgrims to commence.

(2) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as may be prescribed.

33. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

* For rules regarding the medical inspection of pilgrims, see *Bombay Government Gazette*, 1896, Part I, p. 111.

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34. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

35. (1) Every pilgrim shall be entitled on payment of his passage-money and fulfilment of the other prescribed conditions (if any) to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

(2) Every pilgrim prevented from embarking under section 32 or removed from the ship under section 33 or otherwise prevented from proceeding shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed.

36. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

Penalties.

37. (1) If a pilgrim ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 7, sub-section (1), or section 10, the master or owner shall for every passenger carried in the ship, so discharged (as the case may be), be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

(2) If any person is received as a pilgrim on board a pilgrim ship in contravention of the provisions of section 7, sub-section (2), the master or owner shall for every such pilgrim be liable to such punishment as is specified in sub-section (1).

(3) In either of the said cases the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

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38. If any one impedes or refuses to allow any entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

39. If the master or owner of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 17 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

40. If the master of a pilgrim ship fails to comply with any of the requirements of section 22, section 23 or section 25 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

41. If the master of a pilgrim ship, after having obtained any of the certificates mentioned in section 10 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, the pilgrims on board or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

42. If the master of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any pilgrim the prescribed allowance of food, fuel and water, he shall be punished with fine which may extend to twenty rupees for every pilgrim who has sustained detriment by the omission.

43. (1) If a pilgrim ship has on board a number of pilgrims greater either than the number allowed under this Act or than the number allowed by the license or certificate (if any) granted at her port or place of departure, whichever shall be the smaller, the master and owner shall, for every pilgrim in excess of that number, be each

punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such pilgrim: Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

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(2) Any officer authorized in this behalf by the Local Government may cause all pilgrims over and above the number allowed under this Act or by such license or certificate as aforesaid to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

44. If the master of a pilgrim ship lands any pilgrim at any port or place other than the port or place at which such pilgrim may have contracted to land unless with his previous consent or unless the landing is made necessary by perils of the sea or other unavoidable accident, he shall for every such offence be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty on master for landing pilgrim at a place other than that at which he has contracted to land.

45. If a pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master and owner for making voyage in contravention of contract with pilgrims.

46. If a pilgrim ship is not propelled principally by steam or is not of the prescribed tonnage or steam-power as required by section 26, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master and owner of pilgrim ship not propelled principally by steam or of prescribed tonnage or steam-power.

47. If a pilgrim ship carrying more than one hundred pilgrims has not on board a medical officer, or two medical officers if the number of pilgrims carried exceed one thousand, and also the prescribed attendants as required by section 27, the master shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of pilgrim ship sailing without medical officer or officers or attendants in contravention of section 27.

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48. If the master of a pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained the certificate required by section 29, he shall for every such offence be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

49. If the master of a pilgrim ship knowingly receives on board any pilgrim or any contaminated article in contravention of the provisions of section 32, or keeps on board any pilgrim or article ordered to be removed under section 33, he shall be punished with fine which may extend to five hundred rupees for each pilgrim or fifty rupees for each article so received or kept on board, or with imprisonment which may extend to three months, or with both.

50. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Procedure.

Adjudication of offences and levy of fine by distress of pilgrim ship.

51. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a pilgrim ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of such pilgrim ship, her tackle, furniture and apparel.

52. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

53. The penalties to which masters and owners of pilgrim ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any

Authority to institute proceedings for penalties.

port or place where there is no such officer, at the instance of the Chief Customs-officer. **Act XIV of 1895.**

54. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in or towards compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution, or in rewarding any person upon whose information the conviction took place or who has been otherwise instrumental in the detection or prosecution of the offender.

55. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer;
- (b) it was made in the presence of the person accused; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Supplemental.

56. (1) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place within British India at which a pilgrim ship touches or arrives shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting such pilgrim ship and the pilgrims carried therein to the officer at the port or place from which she commenced her voyage, and to the

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officer at any other port or place within British India where the pilgrims or any of them embarked or are to be discharged.

(2) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place in British India at which a pilgrim ship touches or arrives may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of pilgrims and other matters have been complied with.

57. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a Report of consul. report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Power for Governor-General in Council and Local Government to make rules.

58. (1) The Governor-General in Council may make rules* consistent with this Act to regulate all or any of the following matters :—

- (a) the boats, anchors and cables to be provided on board pilgrim ships ;
- (b) the instruments for purposes of navigation to be supplied ;
- (c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires ;
- (d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (e) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims ;
- (f) the scale on which and manner in which food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water ;
- (g) the quality, quantity, and storage of the cargo to be carried ;
- (h) the allotment of the upper-deck space between the various classes of pilgrims ;
- (i) the amount and distribution of the baggage of pilgrims ;
- (j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;

* For rules made under the powers conferred by this section, see *Gazette of India*, 1896, Part I, p. 800 ; *ibid.*, 1897, Part I, p. 851.

- (k) the form of the statements to be furnished by the master under sections 22 and 25 and the particulars to be entered therein ;
- (l) the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which and seasons at which such rules shall respectively apply ;
- (m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Act to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers ;
- (n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship ;
- (o) the manner in which and the persons by whom the medical inspection of women shall be carried out ;
- (p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof ;
- (q) the refund of passage-money to intending pilgrims who may not be permitted to embark or who having embarked may be removed from the ship under the powers conferred by sections 32 and 33 or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship ;
- (r) the functions of the master, medical officer or officers (if any) and other officers during the voyage ; and,
- (s) generally, to carry out the purposes of this Act.

(2) The Local Government may, with the previous sanction of the Governor-General in Council, make rules* consistent with this Act to regulate—

- (a) the local limits within which, and the time and mode at and in which pilgrims shall be embarked or discharged at any port or place appointed under this Act in that behalf ; and
- (b) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

* For rules made by the Government of Bombay, see *Bombay Government Gazette*, Part I, p. 1108.

**Act XIV
of
1895.**

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

59. All rules heretofore made under the Native Passenger Ships Act, 1887, shall, so far as consistent with this Act, continue to be applicable to pilgrim ships unless and until they shall be superseded or altered by rules under this Act.

Temporary continuance
of existing rules.

60. The Local Government shall appoint such persons as it may think fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Appointment of officers.

**Act XV
of
1895.**

ACT XV OF 1895.*

RECEIVED THE G.-G.'S ASSENT ON THE 10TH OCTOBER 1895.

An Act to explain the Transfer of Property Act, 1882, so far as relates to grants from the Crown, and to remove certain doubts as to the powers of the Crown in relation to such grants.

WHEREAS doubts have arisen as to the extent and operation of the Transfer of Property Act, 1882, and as to the power of the Crown to impose limitations and restrictions upon grants and other transfers of land made by it or under its authority, and it is expedient to remove such doubts ; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Crown Grants Act, 1895.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

2. Nothing in the Transfer of Property Act, 1882, contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of Her Majesty the Queen-Empress, her heirs or successors, or by or on behalf of the Secretary of State for India in Council to, or in favour of, any person whomsoever ; but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.

Transfer of Property Act, 1882, not to apply to Crown grants.

* For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 169, and for Proceedings in Council, see *ibid.*, Part VI, pp. 339 and 355.

This Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

3. All provisions, restrictions, conditions and limitations ever contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Legislature to the contrary notwithstanding.

**Act XV
of
1895.**

ACT I OF 1896.*

**Act I
of
1896.**

RECEIVED THE G.-G.'S ASSENT ON THE 10TH JANUARY 1896.

An Act to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to amend the Indian Emigration Act, 1883; It is hereby enacted as follows :—

1. In section 105, sub-section (1), of the said Act, for the words “under a contract” the words “under, or with a view to entering into, an agreement” shall be substituted.

Amendment of section 105, Act XXI, 1883.

Addition of new section after section 105, Act XXI, 1883.

2. After section 105 of the said Act the following section shall be added, namely :—

“106. The Governor-General in Council may, from time to time, by notification in the Gazette of India,† declare that all or any of the provisions of this Act or the rules thereunder shall not apply, or shall apply subject to such conditions, modifications or restrictions as to the Governor-General in Council may seem expedient, in the case of Natives of India departing out of British India under an agreement made with, or on behalf of, Her Majesty's Government to labour for hire in any country beyond the sea :

Power to declare whole or part of Act and rules inapplicable to natives of engaged, for Her Majesty's Government to for hire in any country beyond the sea.

Provided that no notification under this section shall be issued unless the Governor-General in Council is first satisfied that the fair treatment of Natives of India so departing out of British India has, by rules or otherwise, duly been secured.”

* Short title, “The Indian Emigration Act (1883) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 3 and for Proceedings in Council, see *ibid.*, Part VI, pp. 7 and 10.

† See *Gazette of India*, 1896, Part I, pp. 34 and 272, as to labourers engaged for the railway from Mombassa to Victoria Nyanza.

**Act II
of
1896.**

ACT II OF 1896.*

RECEIVED THE G.-G.'S ASSENT ON THE 3RD FEBRUARY 1896.

An Act to provide for the Imposition and Levy of certain Duties on Cotton Goods.

WHEREAS it is expedient to repeal the Cotton Duties Act, 1894, and to impose certain duties on cotton goods; It is hereby enacted as follows:—

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Cotton Duties

It extends to the whole of British India; and

(3) It shall come into force at once.

Repeal.

2. (1) The Cotton Duties Act, 1894, is hereby repealed.

(2) But all the provisions in respect of drawback contained in sections 17 to 24 of that Act shall be deemed to be in force in respect of all duty paid thereunder, and all sums recoverable, liabilities incurred, officers appointed or authorized, warehouses licensed and rules and directions made under that Act shall, so far as may be, be deemed respectively to be recoverable, and to have been incurred, appointed or authorized, licensed and made under this Act.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context,—

(1) “the Principal Act” means the Sea Customs Act, 1878.

(2) “Chief Customs Authority” means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioner of Oudh, the Board of Revenue; in the Presidency of Bombay outside Sind, the Commissioner of Customs; in Sind, the Commissioner; in the Punjab and Burma, the Financial Commissioner; and elsewhere the Local Government or such officer as the Local Government may, by notification

* For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 18; for Report of the Select Committee, see *ibid.*, Part IV, p. 11; and for Proceedings in Council, see *ibid.*, Part VI, pp. 20 and 36.

in the official Gazette, appoint in this behalf by name or in virtue of his office :*

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of
1896.**

(3) "Collector" means—

(a) at Calcutta, Bombay, Madras, Rangoon and Karachi, the Collector of Customs, and

(b) in any other place, the Collector or Deputy Commissioner of the District or such other officer as the Local Government may appoint in this behalf, and includes

(c) every officer for the time being duly authorized by the Local Government to perform all or any of the duties of a Collector under this Act : †

(4) "cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres :

(5) "cotton goods" or "goods" includes all tissues and other articles (except yarn and thread), woven, knitted or otherwise manufactured wholly or partly from cotton yarn :

(6) "mill" means any building or place where cotton goods are woven, knitted or otherwise manufactured by machinery moved otherwise than by manual labour, and includes every part of such building or place :

(7) "warehouse" means a place licensed for the storage of goods under this Act, and includes every public or private warehouse duly appointed or licensed under section 15 or 16 of the Principal Act,‡ or under section 2 of the Inland Bonded Warehouses Act, 1887 : §

(8) "customs-port," "foreign port," "vessel" and "master" have respectively the meanings defined for them in the Principal Act.‡

4. The officers subordinate to a Collector shall, unless the Local Government shall otherwise so direct, for the purposes of this Act, perform the duties imposed and exercise the powers conferred upon officers of Customs under the Principal Act.‡

* For appointment in virtue of the powers conferred by this section in Bombay, see the Bombay List of Local Rules and Orders, Ed. 1896, Vol. I, p. 548.

† For officers appointed to perform the duties of a Collector in the Presidency of Bombay, under ss. 8, 15 and 30, see Bombay List of Local Rules and Orders, Ed. 1896, Vol. I, p. 548.

‡ The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1) *supra*.

§ See now the Inland Bonded Warehouses Act, 1896 (III of 1896), s. 3 (2), which directs that this reference shall be read as if it were made to that Act.

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of
1896.

PART I.

EXCISE.

*Application of Principal Act.**

5. In the application of the Principal Act,* or any particular section or sections thereof to this Part, the following Modifications to be made in Principal Act as applied to this Part. modifications shall be made therein, namely :—

- (a) “the owner of the goods” shall include the managing agent or other principal officer of a mill ;
- (b) for “the bill-of-entry” or “shipping-bill” shall be substituted “the return required by this Act” ;
- (c) every reference to a warehouse, or warehousing, shall be construed as referring to a “warehouse” as hereinbefore defined.

Duty.

6. There shall be levied and collected at every mill in British India, upon all cotton goods produced in such mill, a duty at the rate of 3½ per centum on the value of such goods.

Imposition of duty on cotton goods produced in British Indian mills.

Explanation.—Goods are said to be produced within the meaning of this section when they are issued out of the premises of the mill. But, in the case of any mill in which the goods are chiefly or largely made up and sold otherwise than as piece-goods, the Governor-General in Council may direct that goods shall be reckoned as produced when they are issued out of the weaving section or sections of the mill.

7. (1) The Governor-General in Council may, from time to time, by notification in the Gazette of India, fix, for the purpose of levying the said duties, tariff values of all such goods† as aforesaid or of any particular description or descriptions thereof, and alter any tariff values for the time being in force.

Power to Governor-General in Council to fix tariff values of such goods.

(2) Such tariff value shall, for the purposes of this Act, be deemed to be the “real value” of the goods to which it applies, but save as aforesaid all goods shall be assessed under this Act at their real value.

(3) For the purposes of this Act the real value shall be deemed to be—

- (a) the wholesale cash price, less trade discount for which goods of the like kind and quality are sold or are capable of being sold at the time and place of production, without any abatement or

* The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

† For notification issued under this power, fixing the tariff values on unbleached cotton (grey) goods, see *Gazette of India*, 1897, Part I, p. 121.

deduction whatever, except of the amount of the duties payable on the production thereof;

- (b) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place, without any abatement or deduction, except as aforesaid.

8. (1) The owner of every mill, shall prepare and deliver, or cause to be prepared and delivered, to the Collector each month a return of all the cotton goods produced at his mill during the preceding month; and shall subscribe a declaration of the truth of such return at the foot thereof.

Delivery of monthly returns of goods produced by mill-owners.

(2) Unless otherwise prescribed by any rules under this Act, every such return shall state for each description of goods the quantity produced during the period to which the return relates, and the real value of such goods.

(3) Every such return shall also contain such further information and be in such form and be subject to such conditions as to verification and otherwise as may be prescribed by any rules under this Act.

(4) Each return shall be delivered to the Collector or posted to his address within three working days, and at most within seven days, of the period to which it relates; and the first of such returns shall be made for the month of February 1896, and shall include all goods produced since the commencement of this Act.

Explanation.—"Working day" in this sub-section means every day except a public holiday as defined in section 25 of the Negotiable Instruments Act, 1881.

9. (1) The Collector shall assess the duties payable in respect of the period to which the return relates, and unless the amount thereof is immediately tendered shall cause a notice, in such form as may be prescribed by any rules under this Act, to be served on the owner requiring him to make payment of the amount assessed within ten days of the date of service of the said notice.

Assessment of duty and notice requiring payment.

(2) A notice under sub-section (1) may be served on the owner of a mill by delivering or tendering to him or his agent at his ordinary place of business a copy of the notice, or, if this cannot be conveniently done, by fixing a copy of the notice on one of the outer doors of the mill.

Application of certain sections of Principal Act to assessment and recovery of duty under this Act.

10. Sections 31 to 34, 37, and 39 to 41, all inclusive, of the Principal Act,* shall apply to the assessment and recovery of the duties imposed by this Act :

* The Sea Customs Act, 1878 (VIII of 1878), *see* s. 3 (1),

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Provided that the rate of duty and the tariff valuation applicable to any goods which have not been warehoused as hereinafter provided shall be those in force at the time when the goods were produced, and not when the return was delivered as provided by the said section 37.

11. (1) If any duty payable under this Act is not paid within the time fixed by any such notice as aforesaid for the payment thereof, the Collector may, in lieu thereof, recover any sum not exceeding double the amount of duty so unpaid, which he shall, in his discretion, think it reasonable to require.

Recovery of unpaid duty.

(2) All sums recoverable under sub-section (1) shall be recovered in the manner provided in Act II of 1886,* section 30, sub-sections (1), (2) and (3), with respect to the sums therein referred to.

Warehousing.

12. (1) The Chief Customs Authority may from time to time license any room or place as a warehouse for the storage of cotton goods, and for the purposes of this Act every such room or place shall be deemed to be a warehouse and to have been duly licensed under the Principal Act.†

Licensing of warehouses for storage of goods and fees for same.

(2) There shall be payable in respect of every such warehouse such and the like licensing fees and other payments as may for the time being be payable in respect of a private warehouse licensed under the Principal Act:†

Provided that the Chief Customs Authority may remit the whole or any part of such fees or other payments in respect of any particular warehouse.

13. (1) The owner of any mill may apply for leave to deposit in a warehouse any goods in respect of which duty has become leviable under section 6 but has not yet been assessed under section 9.

Permission to deposit goods in warehouses.

(2) Such application shall be in writing signed by the applicant, and shall be in such form as may be prescribed by the Chief Customs Authority.

14. All the provisions of Chapter XI of the Principal Act,† so far as the same are applicable to imported goods of a similar description, shall apply to all goods in respect of which an application has been made under section 13.

Application to goods so deposited of provisions of Chapter XI of Principal Act.

15. When any goods have been deposited in a warehouse, the quantity and particulars thereof shall be specified as so deposited in the return made under section 8 for the period in which the goods were produced, or in a separate return for that same period, and the said goods shall be deducted in the assessment and collection of duty.

Exemption from assessment of goods so deposited.

* The Indian Income-tax Act, 1886.

† The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

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1896.

16. (1) The Collector, or any officer duly appointed by the Local Government in that behalf, shall have free access at all reasonable times during working hours to any mill and, subject to any order of the Local Government in this behalf, to any part of any mill.

Power to Collector to inspect mills and take copies of records and accounts.

(2) Any such officer may at any time, with or without notice to the owner, examine the working records, sale records, and accounts of any mill, and take copies of, or extracts from, all or any of the said records or accounts, for the purpose of testing the accuracy of any return, or of informing himself as to any particulars regarding which information is required for the purposes of this Act or any rules thereunder.

(3) Any mill-owner may object to submitting to any officer under the rank of a Collector any record or account containing the description or formulæ of any trade process :

but, if he objects to the inspection of any record or account by such an officer on the ground of its containing such description or formulæ, he must submit his objection in writing to the officer for transmission to the Collector, and the officer may then and there seal up the record or account pending the orders of the Collector.

(1) All such copies and extracts, and all other information acquired by any such officer on the inspection of any mill or warehouse, shall be regarded as strictly confidential, and shall be deemed to be official secrets.

Information acquired to be deemed official secrets within meaning of Act XV, 1889.

(2) If any such officer shall disclose to any person other than a superior officer any such official secret as aforesaid without the previous consent in writing of the Chief Customs Authority, he shall be guilty of a breach of official trust, and shall, upon conviction thereof, be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.

(3) The restriction imposed by section 5 of the last-mentioned Act shall not apply to a prosecution for a breach of an official trust under this Act.

Export and Drawback.

18. If any dutiable goods are exported by sea to any foreign port before the return in respect of them has been delivered to the Collector under section 8, the owner of the mill in which they were produced may apply in writing to the Customs Collector at the port of shipment, who, on being satisfied that such goods have actually been shipped for export, shall issue a certificate stating the quantity and particulars of such goods and that they have actually been so shipped.

Grant of certificate when dutiable goods are to be exported to foreign port.

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19. When any certificate has been applied for under section 18, the quantity and particulars of the goods mentioned in the application shall be specified as so shipped in the return made under section 8 for any period not later than that in which they were shipped, and, if the Collector is satisfied that the said goods have been so shipped and that the conditions (if any) imposed by rules under this Act have been complied with, the said goods shall be deducted in the assessment and collection of duty.

20. (1) When any dutiable goods are exported by sea from any customs port to any foreign port, the exporter may apply to the Customs Collector at the port of shipment for the repayment as drawback of any duty which may have been paid under this Act in respect of such goods.

(2) In every application made under sub-section (1) the applicant must state the description or descriptions of the goods in respect of which drawback is claimed, the mill at which the goods were produced, and, as nearly as possible, the dates on which they were produced, and such further particulars, if any, as may be prescribed.

21. (1) The drawback shall be allowed by the Collector if it is shown to his satisfaction that the goods in respect of which drawback is applied for have paid duty within twelve months of the date on which they are shipped for export, and that the conditions (if any) imposed by rules under this Act have been complied with.

(2) Drawback shall not cease to be admissible merely by reason of the goods in respect of which it is applied for having been bleached, dyed, coloured or printed after having been produced within the meaning of section 6.

22. (1) The Governor-General in Council may, from time to time, by notification in the Gazette of India, prohibit the payment of drawback on the exportation of cotton goods to any specified foreign ports.

(2) Any notification already made under section 22 of the Cotton Duties Act, 1894,* shall be deemed to have been made under this section.

No repayment of duty to be granted in certain cases.

23. Notwithstanding anything herein contained, no drawback shall be allowed in respect of any cotton goods on which duty has been paid—

(a) when the goods are of less value than the amount of drawback claimed, or

* Repealed by this Act.

(b) when the claim is for drawback amounting to less than five rupees in respect of any single shipment.

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of
1896.

Application of sections 51 and 52 of Principal Act to claims under this Act.

24. Sections 51 and 52 of the Principal Act* shall apply to every claim for drawback under the

Offences and Penalties.

25. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the second column thereof with reference to such offences respectively :—

- | | |
|---|--|
| 1. Contravening any rule made under this Act. | Penalty not exceeding five hundred rupees. |
| 2. Concealing or attempting to conceal, or knowingly permitting or procuring to be concealed, any goods liable to duty under this Act with intent to evade payment of the duty or any part thereof. | such goods shall be liable to confiscation, and every person convicted of the offence shall be liable to a penalty not exceeding three times the value of the goods. |
| 3. Omitting to make any return required by section 8 or refusing to sign or complete the same. | Penalty not exceeding one thousand rupees. |
| 4. Making and delivering any such return containing any statement not true to the best of the information and belief of the person making the same. | The penalty provided in the Indian Penal Code, section 199, for making a false statement in a declaration. |
| 5. Altering or falsifying any record or book of account kept in the mill with the intention of defrauding the revenue. | The penalty provided in the Indian Penal Code, section 465, for the commission of forgery. |
| 6. Omitting, without reasonable cause, to keep samples as provided in section 28. | A penalty for each offence not exceeding two hundred rupees. |
| 7. Omitting to keep such proper records and books of account as may be prescribed by any rule under this Act. | Penalty not exceeding five hundred rupees and a further penalty of twenty rupees for every day after the date of the conviction during which the offence is continued. |
| 8. Omitting to make and deliver any return which by any rule under this Act ought to have been made and delivered. | Penalty not exceeding one thousand rupees. |
| 9. Intentionally obstructing any Collector or other officer in the exercise of any powers given under this Act. | Imprisonment for a term not exceeding six months, or fine not exceeding one thousand rupees, or both. |

* The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1).

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10. If any goods in respect of which a certificate has been obtained under section 18, or any goods on the entry of which for export drawback has been paid, or not duly exported or are unshipped or relanded at any customs port, not having been duly relanded or discharged under the provisions of the Principal Act.*

Such goods, together with any vessel used in the unshipping or relanding them, shall be liable to confiscation, and the master of the vessel from which such goods are so unshipped or relanded, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such unshipping or relanding, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.

11. If any goods are entered for drawback which are of less value than the drawback claimed.

Such goods shall be liable to confiscation.

12. If any goods are found concealed in any place, box or closed receptacle in any mill and are not duly accounted for to the satisfaction of the Collector.

Such goods shall be liable to confiscation.

13. If any goods are found in any mill in excess of the quantity entered in the return or not corresponding with the statement therein contained.

Such goods shall be liable to confiscation or to be charged with such increased duty as the Chief Customs Authority may direct.

14. If when any cotton goods are passed by tale or by package any omission or misdescription thereof tending to injure the revenue be discovered.

The person guilty of such omission or misdescription shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to the Government by such omission or misdescription, unless it be proved to the satisfaction of the Collector or other officer that the variance was accidental.

15. If any Collector or officer subordinate to a Collector does any act or is guilty of any omission in contravention of this Act or of any rule or order made thereunder; or, with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act.

Such Collector or officer shall be liable on conviction to a fine^f not exceeding five hundred rupees.

16. The offences described in the Principal Act,* section 167, Schedule Nos. 41—53, both inclusive, in reference to warehousing of dutiable goods.

The penalties prescribed in the same Schedule in respect of such offences respectively.

* The Sea Customs Act, 1878 (VIII of 1878), *see* s. 3 (1), *supra*.

Magistrates having jurisdiction.

26. All offences against this be
tried summarily by a District or Presidency Magistrate or a Magistrate of the First Class.

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Application of section 168 of Principal Act to cases of confiscation under this Act.

27. Section 168 of the Principal Act* shall apply to all cases of confiscation of goods under this Act.

Miscellaneous.

28. (1) The owner of every mill shall, in the case of any goods other than those for which tariff values have been fixed under section 7, take a sample or samples of such goods, at the time of manufacturing the same, and shall preserve such samples for reference for at least six months after the said goods are produced.

Samples of certain goods to be taken by mill-owners at time of manufacture and to be available for inspection.

(2) Such samples shall be at all times available for inspection by the Collector, or by any officer appointed under section 16; and an examination thereof shall, if the goods themselves cannot conveniently be examined, be deemed to be an examination of the goods within the meaning of section 31 of the Principal Act.*

(3) The Governor-General in Council may define by rule what shall in any specified case be a sufficient sample for the purposes of this section.

29. (1) The Collector or any officer appointed under section 16 may at any time take samples of any goods for examination or for ascertaining the value thereof, or for any other necessary purpose.

Power to Collector to take samples.

(2) The owner may when required to deliver any sample to an officer appointed under section 16 seal up such sample in a cover addressed to the Collector; and in such case the said officer shall deliver such cover intact to the Collector.

(3) Every sample shall, if practicable, be restored to the owner, or, at his option, sold by the Collector, and the proceeds accounted for to the owner.

Records and accounts to be kept by mill-owners.

30. The owner of every mill shall keep, such records and books of account as may be prescribed by any rules under this Act.

31. The owner of every mill or place where cotton yarn is spun by machinery moved otherwise than by manual labour shall make periodical returns to the Collector of the quantity and description of all such yarns, in such form, with such particulars, and at such intervals, as may be prescribed by any rule under this Act.

Mill-owners to make periodical returns of cotton yarn spun by machinery.

* The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

**Act II
of
1896.**

Application of certain provisions of Principal Act to proceedings under this Act.

Power to Local Government to reverse or modify orders under this Act.

Certain provisions of Principal Act to be incorporated in this Act.

Application of section 10, Act VIII, 1894, to duties under this Act.

Power to Governor-General in Council to make rules.

32. All the provisions of Chapter XVII of the Principal Act,* except sections 169, 170, 177, 182, 184, 185, 187, 190, 191 and 193, shall apply to all proceedings under this Act.

33. The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act, reverse or modify such decision or order.

34. The provisions of sections 198, 201, 204, 205 and 206 of the Principal Act* shall be deemed to be incorporated in this Act.

35. The provisions of section 10 of the Indian Tariff Act, 1894, shall apply to duties on cotton goods imposed under this Act.

36. (1) The Governor-General in Council may from time to time make rules† under this Act,—

- (a) prescribing the form of any return required by or under this Act and the particulars to be contained therein respectively, and the manner in which the same is to be verified, and all such other conditions in respect thereof as may be necessary ;
 - (b) requiring returns of yarns spun ;
 - (c) prescribing the form of the notice to be issued by the Collector under section 9 ;
 - (d) regulating the inspection of mills, and the powers and duties of Collectors and other officers in respect thereof ;
 - (e) regulating the provision of warehouses under this Act, and the deposit and discharge of goods therein and therefrom, and the powers and duties of the Collector in respect thereof ;
 - (f) prescribing the records and books of account to be kept by owners of mills under this Act ;
 - (g) prescribing the conditions under which alone exemption from duty and repayment as drawback shall be allowed under sections 19 and 21 ; and,
 - (h) generally, for carrying into effect the provisions of this Act.
- (2) The application of any such rule may be confined to any place or places specified therein.

* The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

† For rules made under this section, see *Gazette of India*, 1896, Part I, p. 127, and *ibid.*, 1897, Part I, p. 16.

PART II.

INLAND CUSTOMS DUTIES.

Act II
of
1896.

37. (1) Duties of customs shall be levied at the rates for the time being prescribed in the Indian Tariff Act, 1894, upon
 Levy of duties on cotton goods passing into British India from foreign territory. cotton goods passing into British India out of any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

(2) The Governor-General in Council may, by notification in the Gazette of India, declare that any territory situated within or bordering on, but not forming part of, British India shall be deemed, for the purposes of this section, to be foreign territory.

(3) The Governor-General in Council may, from time to time, by notification in the Gazette of India, prohibit or restrict the bringing of cotton goods into British India from any such foreign territory, or prescribe the routes by which alone they may be brought.

(4) The provisions of section 19A of the Principal Act* shall apply to all goods brought or attempted to be brought into British India in contravention of any such notification.

Application of provisions of Principal Act as to drawback to goods taxed under this Part.

38. The provisions of the Principal Act* as to drawback on export shall apply to all goods upon which duty has been paid under this Part.

PART III.

TRANSITORY PROVISIONS.

Drawback in respect of yarns in mills produced, purchased or imported before the 23rd January 1896.

39. If any mill-owner has in his mill, at the commencement of this Act, any yarns which, before the twenty-third day of January 1896,—

- (a) were produced at his mill within the meaning of clause (b) of the *explanation* to section 5 of the Cotton Duties Act, 1894,† or
- (b) were obtained by purchase or on account from another mill-owner, after having been produced by the latter, within the meaning of clause (c) of the said *explanation*, or
- (c) were imported and customs-duty paid thereon, and have not before the commencement of this Act formed part of any goods produced within the meaning of this Act, he shall be entitled to receive, by way of deduction from the amount of duty payable in respect of any goods produced out of such yarns at any time within

* The Sea Customs Act, 1878 (VIII of 1878), *see s. 3 (1), supra.*

† Repealed by this Act.

Act. II
1896.

three months after the passing of this Act, an amount not exceeding the duty which he may show to the satisfaction of the Collector to have been paid upon such yarns, under the operation of the Cotton Duties Act, 1894, or the Indian Tariff Act, 1894 :

Provided that the said yarns shall not have been used solely for borders.

40. (1) Any mill-owner who intends to claim drawback under section 39 shall within a week after the passing of this Act deliver to the Collector a full statement showing,—

Mode of making claims for drawback under section 39.

with respect to clauses (a) and (b) of the said section, the quantity and count of yarn and, as far as possible, the monthly returns in which they were included ;

with respect to clause (c) of the said section, the quantity and count of yarn and the date and particulars of the payment of import duty thereon.

(2) Such statement shall be subscribed and verified by the mill-owner, and the Collector may, by inspection or otherwise, satisfy himself of its correctness.

(3) No deduction shall be allowed under section 39 unless the yarn in respect of which deduction is claimed have been included in the statement prepared under this section.

41. (1) No duty shall be levied under this Act on any goods which at the commencement of this Act are upon the premises of any mill and are ready for issue therefrom, either without undergoing any further process, or after being made up into bales or packets :

Provision with respect to goods in stock.

Provided that a list of such goods be made up and deposited with the Collector within seven days from the commencement of this Act.

(2) The returns of the production of such goods prepared under section 8 of this Act shall be separate from those of other goods.

42. The return of yarn prescribed by section 7 of the Cotton Duties Act, 1894, which would, but for the repeal of the said Act, become due for delivery to the Collector on or before the fifteenth day of February, 1896, shall be prepared and delivered as if the said Act were still in force ; but no duty shall be assessed or collected in respect of any yarn produced on or after the twenty-third day of January 1896.

Return of yarn as under section 7, Act XVII, 1894, to be delivered in February, 1896, but no duty leviable on yarn produced on or after the 23rd January 1896.

ACT III OF 1896.*

Act III
of
1896.

RECEIVED THE G.-G.'S ASSENT ON THE 3RD FEBRUARY 1896.

An Act to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient to repeal Schedules II to V, both inclusive, of the Indian Tariff Act, 1894,† as amended by Act XVI of 1894,† and to substitute other Schedules for them ; It is hereby enacted as follows :—

Substitution of new
Schedules for Schedules II
to V, Act VIII, 1894, as
amended by Act XVI, 1894.

For Schedules II to V, both inclusive, appended to the said Indian Tariff Act, 1894, as so amended, the Schedules appended to this Act shall be substituted.

[SCHEDULES II to V—Printed *supra* p. 574.]

ACT IV OF 1896.‡

Act IV
of
1896.

RECEIVED THE G.-G.'S ASSENT ON THE 20TH FEBRUARY 1896.

An Act to amend the Indian Ports Act, 1889.

WHEREAS it is expedient to amend the Indian Ports Act, 1889 ; It is hereby enacted as follows :—

1. (1) In section 6, clause (o), of the said Act, the word “ and ” shall be omitted, and after clause (p) of the same section the following shall be added, namely :—
- Amendment of section 6,
Act X, 1889.

“ and

(q) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel—

(i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the, quarters of the officers and crew ;

* Short title, “ The Indian Tariff Act (1894) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 34 ; for Report of the Select Committee, see *ibid.*, Part IV, p. 29 ; and for Proceedings in Council, see *ibid.*, Part VI, pp. 21 and 75.

† The Indian Tariff Act, 1894 (XVI of 1894), is virtually repealed by this Act, and it has not therefore been republished.

‡ Short title, “ The Indian Ports Act (1889) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 41 ; for Report of the Select Committee, see *ibid.*, 1896, Part V, p. 123 ; and for Proceedings in Council, see *ibid.*, 1895, Part VI, p. 142 ; and *ibid.*, 1896, Part VI, pp. 2, 85 and 98.

**Act IV
of
1896.**

(ii) to erect windsails so far as the existing port-holes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew ;

(iii) when the deck is made of iron and not wood-sheathed, to cover with wooden planks or other suitable non-conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew ;

(iv) when the quarters used by the crew and the galley are separated by an iron bulkhead only, to furnish a temporary screen of some suitable non-conducting material between such quarters and the galley."

**Act V
of
1896.****ACT V OF 1896.***

RECEIVED THE G.-G.'S ASSENT ON THE 27TH FEBRUARY 1896.

An Act to amend the Foreign Jurisdiction and Extradition Act, 1879.

WHEREAS it is expedient to amend the Foreign Jurisdiction and Extradition Act, 1879 ; It is hereby enacted as follows :—

1. In section 3 of the said Act, for the words " officer in British India " the words " officer of the Government of India or of any Local Government," and for the words " the Governor in Council of the Presidency of Fort St. George or Bombay " the words " the Local Government " shall be substituted.

Amendment of section 3,
Act XXI, 1879.

Addition to section 11,
Act XXI, 1879.

2. To section 11 of the said Act the following shall be added, namely :—

* Short title, " The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896," see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 156 ; for Report of the Select Committee, see *ibid.*, 1896, Part V, p. 129 ; and for Proceedings in Council, see *ibid.*, 1895, Part VI, p. 19 ; and *ibid.*, 1896, Part VI, pp. 2, 94 and 107.

As being part of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879), it is in force in Upper Burma (excluding the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see *Gazette of India*, 1896, Part II, p. 1004.

So much of the Act as was in force in Upper Burma at the date of the notification has, by notification under s. 8 (1) of the Upper Burma Laws Act, 1886 (XX of 1886), and ss. 4 and 5 of the Shan States Act, 1888 (XV of 1888), been declared in force in the Shan States, see *Burma Gazette*, 1898, Part I, p. 406.

"The act of desertion from any body of Imperial Service Troops shall be deemed to be an offence in respect of which the Political Agent for the State to which such troops belong may issue a warrant under this section."

**Act V
of
1898.**

3. In section 12 of the said Act, after the words "and the accused person, when arrested, shall," the words "unless released on bail in accordance with the provisions of the next following section," shall be inserted.

Amendment of section 12, Act XXI, 1879.

Insertion of new sections after section 12, Act XXI, 1879.

4. After section 12 of the said Act the following sections shall be inserted, namely :—

"12A. A Political Agent issuing a warrant for the arrest of any person under section 11 may in his discretion direct by endorsement thereon that, if such person executes a bond with sufficient sureties for his attendance before the officer mentioned in the warrant at a specified time, the Magistrate to whom the warrant is directed shall take such security and release such person from custody.

Power to Political Agent to direct security to be taken and procedure thereon.

"The endorsement shall state (a) the number of sureties (if any), (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (c) the time and place at which he is to attend before the officer mentioned in the warrant.

"Whenever security is taken under this section, the Magistrate shall certify the fact to the Political Agent by whom the warrant was issued, and shall retain the bond.

"12B. If the person bound by any bond executed under the last foregoing section to appear before the officer mentioned therein does not so appear, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and delivered over to such officer.

Arrest on breach of bond to appear.

"12C. In the case of every bond required to be executed or which may have been executed in accordance with the foregoing provisions, the powers conferred by sections 513 and 514 of the Code of Criminal Procedure, 1882,* on the Court which has required the execution of or has taken a bond may be exercised by the Magistrate."

Application of sections 513 and 514, Act X, 1882.

Addition to section 13, Act XXI, 1879.

5. At the end of section 13 of the said Act the following shall be added, namely :—

"or, in the case of a deserter, by a duly constituted Military Court."

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

**Act V
of
1879.**

Addition of new section after section 17, Act XXI, 1879.

6. After section 17 of the said Act the following section shall be added, namely :—

“ 17A. Notwithstanding anything in the Code of Criminal Procedure, 1882,* any person arrested without an order from a Magistrate and without a warrant in pursuance of the provisions of section 54, clause *seventhly*, of the said Code,* may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 15 of this Act.”

**Act VI
of
1896.**

ACT VI OF 1896.†

RECEIVED THE G.-G.'S ASSENT ON THE 27TH FEBRUARY 1896

An Act to amend the Indian Penal Code.

WHEREAS it is expedient to amend the Indian Penal Code ; It is hereby enacted as follows :—

Substitution of new paragraph for paragraph 2 of section 230 of Code.

1. (1) For the second paragraph of section 230 of the said Code the following shall be substituted, namely :—

“ Queen's coin is metal stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions, in order to be used as money ; and metal which has been so stamped and issued shall continue to be the Queen's coin for the purposes of this chapter, notwithstanding that it may have ceased to be used as money.”

(2) To the illustrations appended to the said section the following shall be added, namely :—

“ (c) The ‘ Farukhabad rupee,’ which was formerly used as money under the authority of the Government of India, is Queen's coin, although it is no longer so used.”

ACT VII OF 1896.*

Act VII
of
1896.

RECEIVED THE G.-G.'S ASSENT ON THE 27TH FEBRUARY 1896.

An Act to amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows :—

Amendment of section
71, Act XV, 1882.1. In section 71 of the said Act the words
and numerals " section 38 or " are repealed.

ACT VIII OF 1896.†

Act VIII
of
1896.

RECEIVED THE G.-G.'S ASSENT ON THE 5TH MARCH 1896.

*An Act to provide for the establishment of bonded warehouses at places
other than customs-ports, and to afford facilities for the bonding
of salt in such warehouses.*

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses; It is hereby enacted as follows :—

Title, construction and
commencement.1. (1) This Act may be called the Inland
Bonded Warehouses Act, 1896.

(2) It shall be read with, and taken as part of, the Sea Customs Act, 1878; and

(3) It shall come into force at once.

Extent.
2. Sections 5 to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor-General in Council may, from time to time, by notification in the Gazette of India, direct in this behalf.‡*Inland Bonded Warehouses.*

Repeal.

3. (1) The Inland Bonded Warehouses Act, 1887, is hereby repealed.

(2) The reference to that Act in section 3, clause (7), of the Cotton Duties Act, 1896, shall be read as if it were made to this Act.

* Short title, "The Presidency Small Cause Courts Act (1882) Amendment Act, 1896," see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 127; and Proceedings in Council, see *ibid.*, Part VI, pp. 91 and 110.For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 54; for Report of the Select Committee, see *ibid.*, 1896, Part V, p. 145; and for Proceedings in Council, see *ibid.*, 1895, Part VI, p. 238, and *ibid.*, 1896, Part VI, pp. 2, 104 and 114.§ 5 to 7 have been extended to the territories administered by the
ia, 1897, Part I,

**Act VIII
of
1898.**

4. (1) Notwithstanding anything contained in the Sea Customs Act, 1878, the Chief Customs-authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

(2) In reference to such a place and a warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

(3) All rules applicable to such warehouses, and to the weighment and removal thereto of salt, and in force at the commencement of this Act, shall remain so applicable until they shall be duly superseded or altered.

(4) Every warehouse appointed or licensed under the provisions of the Inland Bonded Warehouses Act, 1887,* shall be deemed to have been appointed or licensed under this Act.

Salt Time-Bonds.

5. Notwithstanding anything contained in the Sea Customs Act, 1878, or in section 4 of this Act, the Chief Customs-authority may permit salt removed from ship board or from a warehouse appointed or licensed under the Sea Customs Act, 1878, to be conveyed, under a bond securing the subsequent payment of the duty leviable in respect of the salt so removed and in accordance with such rules as may be prescribed in this behalf by the Local Government, to a warehouse appointed or licensed for that purpose by the Chief Customs-authority.

6. Every bond executed in accordance with the provisions of the last preceding section shall be in the form hereto annexed, or, when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-authority :

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption, and shall in no case exceed six months :

Provided, also, that the Chief Customs-authority may at any time require the duty to be paid to the extent to which the salt may have been delivered from the warehouse.

* Repealed by this Act.

7. The Local Government may, with the previous sanction of the **Act VIII of 1896.**
 Governor-General in Council, make rules,* consistent with the provisions of this Act, to regulate—
 Power to make rules.

- (1) the appointment or licensing of warehouses under section 5 ;
- (2) the inspection by Government officers of such warehouses ;
- (3) the safe custody of salt in transit under the provisions of the said section ;
- (4) the removal of salt from a warehouse appointed or licensed under the said section ;
- (5) the nature of the security to be required from a person executing a bond in accordance with the provisions of the said section and the time and place of payment of the sum recoverable under such bond ; and,
- (6) generally, such other matters as may be deemed necessary to secure the safety of the public revenue.

8. Nothing in section 5 or section 6 shall prevent the removal of salt in any manner in which it may for the time
 Saving. being be lawfully removeable under section 4.

FORM OF BOND.

(See section 6.)

No. 189 .

We, A. B ,

now of

; and C. D.,

, of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council for which payment we jointly and severally bind ourselves and our legal representatives.

(Date)

(Signed)

The above bounden , having applied to the officer in charge of the Custom-house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses Act, 1896, and situated at , for a period of months, the following goods, that is to say, maunds of salt imported by sea from .

on board of the ship and entered in the Custom-house books as No. of the Register of goods imported by sea ;

The condition of this bond is that

If the said or their legal representatives shall observe all the prescribed under the said Inland Bonded Warehouses Act, 1896, to be observed

* For rules made by the Government of Bengal under this section, see Calcutta

**Act VIII
of
1896.**

by the owners of goods warehoused and persons obtaining permission to w
goods under the provisions thereof ;

And if the said or their legal representatives shall pay to
the officer in charge of the Custom-house at the port of , or
to the Collector of , all dues, including customs-duties or other lawful
charges, which shall be demandable on the said salt or on account of penalties incurred
in respect thereto, within from the date of this bond, together
with interest on every such sum at the rate of six per cent. per annum from the date of
demand thereof being made in writing by the said officer in charge of the Custom-
house ;

And if, within the term so fixed or such further period (if any) as may be granted
by the Chief Customs-authority for the payment thereof, the full amount of all customs-
duties and other lawful charges, penalties and interest demandable as aforesaid shall
have been first paid on the whole of the said salt ;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condi-
tion, the same shall be in force.

(Date)

(Signed) (

).

**Act IX
of
1896.**

ACT IX OF 1896.*

RECEIVED THE G.-G.'S ASSENT ON THE 5TH MARCH 1896.

An Act to amend the Indian Railways Act, 1890.

WHEREAS it is expedient to amend the Indian Railways Act, 1890 ; It is
hereby enacted as follows :—

1. In section 7, sub-section (1), clause (a), of the said Act, after the word
Amendment of section 7, " roads," in the second place in which it occurs,
Act IX, 1890. the words " lines of railway " shall be added.

2. In section 10, sub-section (2), of the said Act, for the latter
part of the sub-section after the words " so far
Amendment of section 10,
sub-section (2), Act IX, 1890. as may be " the following shall be substituted,
namely :—

" with the provisions of sections 11 to 15, both inclusive, sections 18 to 34,
both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894,

* Short title, " The Indian Railways Act (1890) Amendment Act, 1896," see the
Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 125 ;
and for Proceedings in Council, see *ibid.*, Part VI, pp. 90 and 115.

As being part of the Indian Railways Act, 1890 (IX of 1890), it is in force in
Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898).
Printed, Burma Code, Ed. 1899.

It has been extended, by notification under s. 5 of the Act last mentioned, to British
Baluchistan, see *Gazette of India*, 1896, Part II, p. 1004.

and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation."

Act IX
of
1896.

Amendment of section 59, sub-section (3), Act IX, 1890.

3. In section 59, sub-section (3), of the said Act, for "sub-section (1)," "sub-section (2)" shall be substituted.

Amendment of section 73, sub-section (1), Act IX, 1890.

4. In section 73, sub-section (1), of the said Act, before the word "camels" the word "mules," and before the word "sheep" the word "donkeys" shall be added.

Repeal of section 81, Act IX, 1890.

5. Section 81 of the said Act is repealed.

6. In section 114 of the said Act, for the words "the return half" the words "any half," and for the words "the return journey," the words "the journey" shall be substituted.

7. In section 136, sub-section (1), of the said Act, after the word "Court" the words "or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution" shall be added.

ACT X OF 1896.*

RECEIVED THE G.-G.'S ASSENT ON THE 13TH MARCH 1896.

of
1896

An Act to amend the Indian Volunteers Act, 1869.

WHEREAS it is expedient to amend the Indian Volunteers Act, 1869 (hereinafter referred to as the said Act); It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Indian Volunteers Act Amendment Act, 1896.

(2) It shall have the same extent as the Indian Volunteers Act, 1869; and

(3) It shall come into force at once.

of new section, for section 4, Act XX,

2. For section 4 of the said Act the following shall be substituted, namely:—

"(1) 'Magistrate' means, within the limits of the Presidency towns, the

* For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 49; Report of the Select Committee, see *ibid.*, 1896, Part V, p. 139; and for Proceedings II, see *ibid.*, 1895, Part VI, p. 234, and *ibid.*, 1896, Part VI, pp. 83, 98 and 122.

As being part of Act XV of 1869 it was declared in force in Upper Burma (except States) by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code,

Act XX of 1869. Chief Presidency Magistrate, and without those limits a Magistrate of the first class who is a Justice of the Peace :

(2) volunteers shall be deemed to be on "actual duty" —

(a) when being trained or exercised either alone or with any portion of the regular forces, or

(b) when attached to or otherwise acting as part of or with any regular forces, or

(c) when serving in aid of the civil power ; and

(3) "civil district" means a district as defined in the Code of Civil Procedure."

Substitution of new section for section 8.

3. For section 8 of the said Act the following shall be substituted, namely :—

Application of Army Act.

"8. Every member of a corps of volunteers shall, for all military offences of which he shall be guilty whilst on actual duty or actual military service, be subject to the Army Act,* so far as the same is applicable to officers and consistent with the provisions of this Act."

Amendment of section 12, Act XX, 1869.

4. In section 12 of the said Act, for the words "Articles of War" the words "Army Act" shall be substituted.

Amendment of section 13, Act XX, 1869.

5. In section 13 of the said Act, after the words "actual duty" the words "or actual military service" shall be inserted.

Substitution of new section for section 16, Act XX, 1869.

6. Subject to section 9 of this Act, for section 16 of the said Act the following section shall be substituted, namely :—

"16. No member of a corps or battalion of volunteers, other than naval volunteers, shall be bound, without his consent, to serve or proceed on duty beyond the limits of the civil district in which he was enrolled, or where a corps or battalion consists of volunteers enrolled in more civil districts than one, beyond the limits of the territory comprised in those districts : and

No member of a corps of naval volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits of the port to which

the corps belongs, such port being construed to include the city or town after which the corps is named and its suburbs, and the navigable rivers, channels and fairways leading thereto :

Act
of
1895.

Provided that the Local Government or the Commissioner of the Division, or other authority to whom power in this behalf may be delegated by the Local Government, may exempt from service any particular corps or portion of a corps or any individual member or members of a corps by name. Such exemption may be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe."

Addition of new sections
after section 26, Act XX,
1869.

7. Subject to section 9 of this Act, after section 26 of the said Act the following sections shall be added, namely :—

" Supplemental.

" 27. (1) In case of actual or apprehended emergency (the occasion being first declared by the Governor-General in Council and notified in the Gazette of India) the Governor-General in Council may call out any corps or any portion of any corps of volunteers for actual military service.

(2) All members of any corps or portion of a corps so called out shall be bound, unless incapacitated by infirmity for military service, to assemble as the Governor-General in Council may direct, and to proceed according to orders within the limits hereinbefore specified; and, from the time of their corps or portion thereof being so called out, shall be deemed to be on actual military service :

Provided that the Local Government or the Commissioner of the Division or other authority to whom power in this behalf may be delegated by the Local Government, may, exempt from service any particular corps or portion of a corps or any individual member or members of a corps by name. Such exemption may be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe.

(3) After a corps or portion of a corps of volunteers has been called out for actual military service, the corps or portion of a corps shall be deemed to be released from actual military service only after a notification in the Gazette of India declaring the occasion to have passed, and not sooner or otherwise :

Provided that the Governor-General in Council may at any time discharge any such corps or portion of a corps from actual military service.

(4) Before a corps or portion of a corps of volunteers is released from actual military service, provision shall be made by the Government for the return of the volunteers present therewith to their homes.

Act
of
1896.

Power to make rules as to allowances to volunteers.

"28. (1) The Governor-General in Council may make rules * for—

- a) the making of payments to, and the provision of transport and supplies for, volunteers called out on actual military service; and
- (b) the grant of pay, pensions, gratuities, allowances and rewards to

(2) The Governor-General in Council may apply such rules or any part of them to any volunteers who may have been called out by any Magistrate or other authority in aid of the civil power :

and may in such case direct, any enactment notwithstanding, by whom the cost of the payments to be made and supplies to be provided under the rules shall be borne.

"29. Where a corps consists of volunteers enrolled in territories subject to more Local Governments than one, the Governor-General in Council may, by notification in the Gazette of India, declare what Local Government shall for all or any of the purposes of this Act be deemed to be the Local Government with respect to the corps."

8. Whenever military operations are about to be undertaken or are in progress, any member of a volunteer corps may offer himself for actual military service; and if the services of such number of members of any corps as in the opinion of the Governor-General in Council is sufficient to enable them to be separately organized are accepted, then those members may be called out either as a corps or as part of a corps, and this Act shall apply to them.

9. Nothing in the new section 16 substituted by section 6 of this Act or in the new section 27 added by section 7 of this Act shall apply to any volunteer who was enrolled before the commencement of this Act, unless he consents in writing to be bound by such new section 16 instead of by the section for which it is substituted, or by such new section 27, as the case may be.

* For rules made under this section to regulate the concessions admissible to volunteers called out for military service, see *Gazette of India*, 1896, Part I, p. 185.

ACT XI OF 1896.*

Act XI
of
1896.

RECEIVED THE G.-G.'S ASSENT ON THE 13TH MARCH 1896.

An Act to amend the Legal Practitioners Act, 1879.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879 ;
It is hereby enacted as follows :—

Addition to section 3, Act
XVIII, 1879.

1. To section 3 of the said Act the following
shall be added, namely :—

“ ‘ Tout ’ means a person who procures the employment in any legal
business of any legal practitioner in consideration
of any remuneration moving from such practi-
tioner, or proposes to a legal practitioner to procure his employment in any
legal business in consideration of such remuneration.”

Substitution of new sec-
tion for section 13, Act
XVIII, 1879.

2. For section 13 of the said Act the follow-
ing shall be substituted, namely :—

Suspension and dismissal
of Pleaders and Mukhtars
guilty of unprofessional
conduct.

“ 13. The High Court may also, after such
enquiry as it thinks fit, suspend or dismiss any
Pleader or Mukhtar holding a certificate as afore-
said—

- (a) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party within the meaning of the Code of Civil Procedure, or some servant, relative or friend authorized by the party to give such instructions, or
- (b) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or
- (c) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtar, or
- (d) who, directly or indirectly, procures or attempts to procure the employment of himself as such Pleader or Mukhtar through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

* Short title, “ The Legal Practitioners Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897).

For Statement of Objects and Reasons, see *Gazette of India*, 1895, Part V, p. 172 ; for Report of the Select Committee, see *ibid.*, 1896, Part V, p. 149 ; and for Proceedings in Council, see *ibid.*, 1895, Part VI, p. 329 ; and *ibid.*, 1896, Part VI, pp. 3, 114 and 123,

**Act XI
of
1896.**

- (e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or
- (f) for any other reasonable cause.

Substitution of new section for section 22, Act XVIII, 1879.

3. For section 22 of the said Act the following shall be substituted, namely :—

“ 22. The Chief Controlling Revenue-authority may also, after such enquiry as it thinks fit, suspend or dismiss any Revenue-Agent holding a certificate as aforesaid—

Suspension and dismissal of Revenue-Agents guilty of unprofessional conduct.

- (a) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or
- (b) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue-Agent, or
- (c) who, directly or indirectly, procures or attempts to procure the employment of himself as such Revenue-Agent through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or
- (d) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or
- (e) for any other reasonable cause.

Substitution of new section for section 36, Act XVIII, 1879.

4. For section 36 of the said Act the following shall be substituted, namely :—

“ 36. (1) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue-officer, not being below the rank of a Collector of a District, and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

Power to frame and publish lists of touts.

No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(3) A copy of every such list shall be kept hung up in every Court to which the same relates,

(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list. •

Act **XXI**
of
1896.

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause , and section 22, clause (d)."

ACT XXI OF 1896

Act **XXI**
of
1896.

RECEIVED THE G.-G.'S ASSENT ON THE 17TH DECEMBER 1896.

An Act to amend the Indian Paper Currency Act, 1882.

WHEREAS it is expedient to authorize an increase of the amount which may be invested in securities of the Government of India out of the coin and bullion received for currency notes under the law relating to the Government paper currency ; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Paper Currency Act Amendment Act, 1896 ; and

(2) It shall come into force at once.

2. Section 19 of the Indian Paper Currency Act, 1882, as amended by Act No. XV of 1890 (*an Act to amend the Indian Paper Currency Act, 1882*), shall be read as if for the words " eighty millions " the words " one hundred millions " were substituted.

3. Act No. XV of 1890 (*an Act to amend the Indian Paper Currency Act, 1882*) is repealed, but not so as to affect the Repeal of Act XV, 1890. • anything heretofore done in pursuance of the provisions of that enactment.

* For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 259 ; and for Proceedings in Council, see *ibid.*, 1896, Part VI, p. 251. •

As being part of Act XX of 1882, it is in force in Upper Burma (except the Shan States), see *Burma Laws Act, 1898* (XIII of 1898), First Schedule. *Burma Code*, Ed. 1899.

**Act I
of
1897.**

ACT I OF 1897.*

RECEIVED THE G.-G.'S ASSENT ON THE 14TH JANUARY 1897.

An Act to amend Act XXXVII of 1850 (for regulating inquiries into the behavior of Public Servants).

WHEREAS it is expedient to amend Act XXXVII of 1850 (*for regulating inquiries into the behaviour of Public Servants*); It is hereby enacted as follows:—

Title of Act XXXVII,
1850.

1. The said Act XXXVII of 1850 may be called the Public Servants (Inquiries) Act, 1850.

Amendment of preamble
to Act XXXVII, 1850.

2. In the preamble to the said Act, after the word "removable" the words "from their appointments" shall be inserted, and for the words "the East India Company" the word "India" shall be substituted.

Amendment of section 2,
Act XXXVII, 1850.

3. In section 2 of the said Act, for the words "the East India Company, not removable from his office without the sanction of the same Government," the words "the Government, not removable from his appointment without the sanction of the Government," shall be substituted.

Substitution of new section
for section 23, Act
XXXVII, 1850.

4. For section 23 of the said Act the following section shall be substituted, namely:—

"23. The powers of the Government under this Act may in all cases be exercised by the Governor-General in Council, and when the person accused can be removed from his appointment by the Local Government, those powers may also be exercised by the Local Government."

* Short title, "The Public Servants (Inquiries) Act (1850) Amendment Act, 1897." See the Indian Short Titles Act, 1897 (XIV of 1897), *infra*. For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 239; for Report of the Select Committee, see *ibid.*, 1897, Part V, p. 5; and for Proceedings in Council, see *ibid.*, 1896, Part VI, pp. 232 and 251; *ibid.*, 1897, Part VI, pp. 2 and 9.

As being part of Act XXVII of 1850, it is in force in Upper Burma except the Shan States, see the Burma Laws Act, 1898 (XIII of 1898), First Schedule, Burma Code, Ed. 1899.

As part of that Act it came into force in the following Scheduled Districts when it was declared in force there by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), namely (1) the whole of Assam except the district of Sylhet and the North Lushai Hills, see *Gazette of India*, 1897, Part I, p. 299; (2) the Porahat Estate in the Singbhum district, see *ibid.*, 1897, Part I, p. 1059; and (3) the Scheduled Districts in Ganjam and Vizagapatam, see *ibid.*, 1898, Part I, p. 870.

ACT III OF 1897.*

Act III
of
1897.

RECEIVED THE G.-G.'S ASSENT ON THE 4TH FEBRUARY 1897.

An Act to provide for the better prevention of the spread of Dangerous Epidemic Disease.

WHEREAS it is expedient to provide for the better prevention of the spread of dangerous epidemic disease ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Epidemic Diseases Act, 1897.

(2) It extends to the whole of British India (inclusive of † British Baluchistan, the Santhal Parganas and the Pargana of Spiti); and

(3) It shall come into force at once.

2. (1) When at any time the Governor-General in Council is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the Governor-General in Council, if he thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take or require or empower any person to take such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as he shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.,

(2) In particular and without prejudice to the generality of the foregoing provisions, the Governor-General in Council may take measures and prescribe regulations for—

(a) the inspection of any ship or vessel leaving,‡ or arriving at, any port, in British India and such detention thereof, or of any person intending to sail therein or arriving thereby, as may be necessary ; and

* For Statement of Objects and Reasons, see *Gazette of India*, 1897, Part V, p. 21 ; for Report of the Select Committee, see *ibid.*, p. 23 ; and for Proceedings in Council, see *ibid.*, Part VI, pp. 18 and 24.

The Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

† The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (XIII of 1898), see Fifth Schedule, printed, Burma Code, Ed. 1899.

‡ For special provision as to inspection of passengers sailing for ports in the Red Sea, see s. 30 of the Native Passenger Ships Act, 1887 (X of 1887).

**Act III
of
1897.**

(b) the inspection of persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

(3) The Governor-General in Council may, by general or special order, direct that all or any of the powers conferred by this Act may also be exercised by any Local Government with respect to the territories administered by it.*

3. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.

Penalty.
Protection to persons
acting under Act.

4. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

**Act IV
of
1897.****ACT IV OF 1897.†**

RECEIVED THE G.-G.'S ASSENT ON THE 4TH FEBRUARY 1897.

An Act to provide for certain matters relating to Fisheries in British India.

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Indian Fisheries Act, 1897.

(2) It extends to the whole of British India, except Burma;‡ and

(3) It shall come into force at once.

* For notification delegating powers under the Act to Local Governments, see *Gazette of India*, 1897, Part I, p. 102.

† For Statement of Objects and Reasons, see *Gazette of India*, 1893, Part V, p. 101; for Report of the Select Committee, see *ibid.*, 1897, Part V, p. 15; and for Proceedings in Council, see *ibid.*, 1893, Part VI, p. 207; *ibid.*, 1896, p. 250, and *ibid.*, 1897, p. 21.

This Act was extended to British Baluchistan by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1897, Part II, p. 792.

As to law in force in Lower Burma, see the Burma Fisheries Act, 1875 (VII of 1875), printed, Burma Code, Ed. 1899.

Act I
of
1897.

2. Subject to the provisions of sections 8 and 10 of the General Clauses Act, 1887,* this Act shall be read as supplemental to any other enactment † for the time being in force relating to fisheries in any part of British India except Burma.

Act to be read as supplemental to other Fisheries Laws.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) “fish” includes shell-fish :

(2) “fixed engine” means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way : and

(3) “private water” means water which is the exclusive property of any person or in which any person has for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity.

Explanation.—Water shall not cease to be “private water” within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein.

4. (1) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

Destruction of fish by explosives in inland waters and on coasts.

(2) In sub-section (1) the word “water” includes the sea within a distance of one marine league of the sea-coast : and an offence committed under that sub-section in such sea may be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such coast.

5. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

Destruction of fish by poisoning of waters.

* See now ss. 4 and 26 of the General Clauses Act, 1897 (X of 1897).

† For law relating to Fisheries in—

(1) the Arakan Hills, see the Arakan Hill District Laws Regulation, 1874 (IX of 1874), s. 3, printed, Burma Code, Ed. 1899 ;

(2) Assam, see the Assam Land and Revenue Regulation, 1886 (I of 1886), ss. 16 and 155, printed, Assam Code, Ed. 1897, p. 238 ;

(3) Bengal and Assam (Private Fisheries), see the Private Fisheries Protection Act, 1889 (Bengal Act II of 1889), printed, Assam Code, Ed. 1897, p. 709 ;

(4) Central Provinces, see Central Provinces Land Revenue Act, 1881 (XVIII of 1881), published by the Legislative Department as modified up to 15th November 1898 ;

(5) Nilgiris District, as to acclimatised fish, see “The Nilgiris Game and Fish Preservation Act, 1879” (Madras Act II of 1879), printed, Madras Code, Ed. 1888, p. 343,

**Act IV
of
1897.**

(2) The Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may in like manner modify or cancel any such notification.

6. (1) The Local Government may make rules for the purposes hereinafter in this section mentioned, and may by a notification in the official Gazette apply all or any of such rules to such waters, not being private waters, as the Local Government may specify in the said notification.

(2) The Local Government may also, by a like notification, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say:—

- (a) the erection and use of fixed engines ;
- (b) the construction of weirs ; and
- (c) the dimension and kind of the nets to be used and the modes of using them.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

(5) In making any rule under this section the Local Government may—

- (a) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in ; and

(b) provide for—

- (i) the seizure, forfeiture and removal of fixed engines, erected, or used, or nets used, in contravention of the rule, and
- (ii) the forfeiture of any fish taken by means of any such fixed engine or net.

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

7. (1) Any police-officer, or other person specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant, arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6—

- (a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

**Act IV
of
1897.**

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained :

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

ACT V OF 1897.*

**Act V
of
1897.**

RECEIVED THE G.-G.'S ASSENT ON THE 25TH FEBRUARY 1897.

An Act to repeal certain obsolete enactments and to amend and facilitate the citation of certain other enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed ;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act ;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third schedule to this Act ;

It is hereby enacted as follows :—

Title and commencement. 1. (1) This Act may be called the Repealing and Amending Act, 1897 ; and

(2) It shall come into force at once.

Enactments in schedules repealed and amended respectively. 2. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation

* For Statement of Objects and Reasons, see *Gazette of India*, 1897, Part V, p. 50 ; and for Proceedings in Council, see *ibid.*, 1897, pp. 41 and 44.

**Act V
of
1897.**

or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

4. Each of the enactments described in the first three columns of the third schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

THE FIRST SCHEDULE.

A description or citation of a portion of an enactment includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
.	.	.	*

Part IV.—Regulations of the Bengal Code.

1806	XI	Passage of Troops	In section 2, <i>the words from the Commanding Officer will at the same time to the end.</i> In section 7, <i>the words and the Magistrates to report to the Nizamat Adalat for the information of the Governor-General in Council.</i>
.	.	.	†

ve been omitted, as they affect Acts of the Governor-General in Council, Governor of Bengal and Regulations under the Government of India Act, in force in Assam alone ; they are printed in extenso in the Assam

† The entries relating to the repeal of Bengal Regulations XIX of 1810 and as they apply to Assam, are omitted ; they are reproduced in

THE SECOND SCHEDULE.

Act V
of
1897.

1	2	3	4
Year.	No.	Short title or subject.	Amendment.
.	.	.	.
<i>Part IV.—Regulations of the Bengal Code.</i>			
1806	XI	Passage of Troops ...	In section 4, clause third, <i>for</i> Governor-General in Council, <i>in each place in which those words occur, read</i> Local Government.
1812	XI	Removal of Foreign Immigrants.	In section 5, clause second, <i>for</i> to the Nizamat Adalat, who will recommend to the Governor-General in Council such abbreviation of the prescribed punishment as they may judge proper, <i>read</i> to the Local Government, and the Local Government shall pass such orders thereon as it may think fit. <i>For</i> Governor-General in Council, <i>wherever those words occur, read</i> Local Government.
1823	VII	Loans to covenanted officers.	In section 3, <i>for the words from</i> All Judges <i>to</i> powers of such Collector, <i>read</i> All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners being members of the Indian Civil Service. In section 6, and also in section 8, <i>for</i> Governor-General in Council <i>read</i> Local Government. In section 8, <i>for</i> Government, <i>read</i> the Local Government.

THE THIRD SCHEDULE.

1	2	3	4
Year.	No.	Subject.	Short title.

Part I.—Local Acts of the Governor-General in Council in force in Assam.

1850	XXV	For the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII, 1819.	The Forfeited Deposits Act, 1850.
"	XXXIII	For amending the forms necessary for the sale of patni tenures in Bengal.	The Sale of Patni Tenures Act, 1850.

* Parts I to III of the second schedule have been omitted, as they affect Acts of the Governor-General in Council, Acts of the Lieutenant-Governor of Bengal and Regulations under the Government of India Act, 1870 (33 Vict., c. 5), in force in Assam alone; they are printed *in extenso* in the Assam Code, Ed. 1897, pp. 295 and

Act V
of
1897.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject.	Short title.	

Part I.—Local Acts of the Governor-General in Council in force in Assam—concl'd.

1853	VI	Relating to summary suits for arrears of rent, to sales of patni taluqs and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.	The Rent Recovery Act, 1853.	
"	XIX	To amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency.	The Recusant Witnesses Act, 1853.	
1856	XII	To amend the law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.	The Civil Courts Amins Act, 1856.	
1867	III	To provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.	The Public Gambling Act, 1867.	
1871	XIX	To provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.	The Bengal Sessions Courts Act, 1871.	
.	.	.	.	
1886	III	To amend the Northern India Ferries Act, 1878.	The Northern India Ferries Act Amendment Act, 1878.	
1892	IV	To amend the Bengal Court of Wards Act, 1879 [Act IX (B.C.) of 1879.]	The Court of Wards Act (Bengal) Amendment Act, 1892.	
.	.	.	.	

* The entries here omitted affect Acts in force only in Assam; they are reproduced in the Assam Code, Ed. 1897, p. 210.

† The entry here omitted relates to the Assam Frontier Tracts Regulation, 1884 (III of 1884), which only affects Assam, see Assam Code, Ed. 1897, p. 210.

THE THIRD SCHEDULE—*contd.*
**Act V
of
1897.**

1	2	3	4
Year.	No.	Subject.	Short title.

Part III.—Regulations of the Bengal Code in force in Assam.

1793	I	For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March 1793.	The Bengal Permanent Settlement Regulation, 1793.
"	11	For abolishing the Courts of Mal Adalat or Revenue Courts and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewani Adalat ; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	The Bengal Land-revenue Regulation, 1793.
	VIII	For re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindars, independent taluqdars and other actual proprietors of land, in Bengal, Behar and Orissa, passed for those provinces respectively on the 18th September 1789, the 25th November 1789, and the 10th February 1790, and subsequent dates.	The Bengal Decennial Settlement Regulation, 1793.
	XI	For removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.	The Bengal Inheritance Regulation, 1793.

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THE THIRD SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject.	Short title.

III.—Regulations of the Bengal Code in force in Assam—contd.

1793	XXXVIII	For re-enacting, with modifications, such part of the rule passed on the 27th June 1787 as prohibits Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindars, independent taluqdars or other actual proprietors of land, or dependent taluqdars or farmers of landholding farms immediately of Government, or the under-farmers or raiats of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.
1799	V	To limit the interference of the Zila Court of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate.	The Bengal Wills and Intestacy Regulation, 1799.
1800	X	For preventing the division of landed estates in the Jangal Mahals of the Zila of Midnapore and other Districts.	The Bengal Inheritance Regulation, 1800.
1804	X	For declaring the powers of the Governor-General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.	The Bengal State Offences Regulation, 1804.

THE THIRD SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject.	Short title.

Part III.—Regulations of the Bengal Code in force in Assam—contd.

1806	XI	For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories.	The Bengal Troops Transport and Travellers Assistance Regulation, 1806.
1812	XI	To empower the Governor-General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.	The Bengal Foreign Immigrants Regulation, 1812.
1818	III	For the confinement of State Prisoners.	The Bengal State Prisoners Regulation, 1818.
1819	VIII	To declare the validity of certain tenures, and to define the relative rights of zamindars and patni taluqdars; also to establish a process for the sale of such taluqs in satisfaction of the zamindar's demand of rent.	The Bengal Patni Taluqs Regulation, 1819.
1820	I	For providing that all sales of certain taluqs made answerable by sale	The Bengal Patni Taluqs Regulation, 1820.

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THE THIRD SCHEDULE—concl'd.

1	2	3	4
Year.	No.	Subject.	Short title.

Part III.—Regulations of the Bengal Code in force in Assam—concl'd.

1820	I— <i>cont'd.</i>	for arrears by the zamindar's rent shall be conducted in the mode provided by Regulation VIII, 1819, for the sales therein described.	
1823	VII	For prohibiting loans by "Covenanted Civil Servants from persons subject to their official authority and influence.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.
1825	VI	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.	The Bengal Troops Transport Regulation, 1825.
	XI	For declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.	The Bengal Alluvion and Diluvion Regulation, 1825.
1827	III	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of Judicature, who may be guilty of corruption or extortion.	The Bengal Corruption and Extortion Regulation, 1827.
	V	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases.	The Bengal Attached Estates Management Regulation, 1827.
1829	XVII	For declaring the practice of Sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.	The Bengal Sati Regulation, 1829.

ACT VI OF 1897.*

Act VI
of
1897.

RECEIVED THE G.-G.'S ASSENT ON THE 4TH MARCH 1897.

An Act to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Negotiable Instruments Act Amendment Act, 1897; and

(2) It shall come into force at once.

Amendment of section 72, Act XXVI of 1881.

2. To section 72 of the said Act the following words shall be prefixed, namely, "Subject to the provisions of section 84."

Substitution of new section for section 84, Act XXVI of 1881.

3. For section 84 of the said Act the following section shall be substituted, namely:—

"84. (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on

When cheque not duly presented and drawer damaged thereby.

whose account it is drawn had the right, at the time when presentment ought to have been made,

as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him."

Illustrations.

(a) A draws a cheque for Rs. 1,000, and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.

* For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 36; for Report of the Select Committee, see *ibid.*, 1897, Part V, p. 51; and for Proceedings in Council, see *ibid.*, 1896, Part VI, pp. 79 and 250, and *ibid.*, 1897, pp. 39 and 54.

As being part of the Negotiable Instruments Act, 1881 (XXVI of 1881), the Act is in force in the whole of Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed.

**Act VII
of
1897.**

ACT VII OF 1897.*

RECEIVED THE G.-G.'S ASSENT ON THE 4TH MARCH 1897.

An Act to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to amend the Indian Emigration Act, 1883; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Emigration Act Amendment Act, 1897; and

(2) It shall come into force at once.

2. In section 102 of the Indian Emigration Act, 1883, as amended by Act No. XVIII of 1890, section 7, for the words “British Colony or possession” wherever they occur, the word “country,” and for the words “State, colony or possession” wherever they occur, the words “State or country” shall be substituted.

Amendment of section 102, Act XXI, 1883.

**Act VIII
of
1897.**

ACT VIII OF 1897.†

RECEIVED THE G.-G.'S ASSENT ON THE 11TH MARCH 1897.

An Act to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

WHEREAS it is expedient to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders; It is hereby enacted as follows:—

I.—Preliminary.

Title, commencement and extent.

1. (1) This Act may be called the Reformatory Schools Act, 1897; and

(2) It shall come into force at once.

* For Statement of Objects and Reasons, see *Gazette of India*, 1897, Part V, p. 65; and for Proceedings in Council, see *ibid.*, Part VI, pp. 47 and 63.

† For Statement of Objects and Reasons, see *Gazette of India*, 1896, Part V, p. 187; for Report of the Select Committee, see *ibid.*, 1897, Part V, p. 55; and for Proceedings in Council, see *ibid.*, 1896, Part VI, pp. 222 and 251; and *ibid.*, 1896, Part VI, pp. 44 and 68.

The Act has been declared in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has also been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597.

(3) This section and section 2 shall extend to the whole of British India. The other sections shall extend in the first instance to the whole of British India except the territories for the time being administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Coorg, but either of the said Local Governments may at any time, by notification in the local official Gazette, extend these sections to their territories from such day as may be fixed in any such notification. Act VIII
of
1897.

2. (1) The Reformatory Schools Act, 1876, is hereby repealed.
Repeal of Act V of 1876.

But all proceedings taken, orders passed, officers appointed or authorized and rules made under the said Act shall, as far as may be, be deemed to have been respectively passed, appointed or authorized and made under this Act.

(3) Any enactment or document referring to the said Act shall, as far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

3. From the date fixed by any notification issued under section 1, sub-section (3), section 399 of the Code of Criminal Procedure, 1882,* shall be repealed in the province to which the notification relates.
Section 399 of Act X of 1882 repealed on date fixed by a notification under section 1, sub-section "

4. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

(a) "youthful offender" means any boy who has been convicted of any offence punishable with transportation or imprisonment and who, at the time of such conviction, was under the age of fifteen years :

(b) "Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector-General : and

(c) "District Magistrate" shall include a Chief Presidency Magistrate.

II.—Reformatory Schools.

5. With the previous sanction of the Governor-General in Council, the Local Government may—
Power to establish and discontinue Reformatory Schools.

(a) establish and maintain Reformatory Schools at such places as it may think fit ;

* See now the Code of Criminal Procedure, 1898 (Act V of 1898).

**Act VIII
of
1897.**

(b) use as Reformatory Schools, schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf ;

(c) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

Requisites of schools.

6. Every school so established or used must provide—

(a) sufficient means of separating the inmates at night ;

(b) proper sanitary arrangements, water-supply, food, clothing and bedding for the youthful offenders detained therein ;

(c) the means of giving such youthful offenders industrial training ;

(d) an infirmary or proper place for the reception of such youthful offenders when sick.

7. (1) Every school intended to be established or used as a Reformatory School shall, before being used as such, be inspected by the Inspector-General, and if he finds that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such, and the school shall thereupon be deemed to be a Reformatory School.

(2) Every such school shall, from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may prescribe.

8. (1) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may, subject to any rules made by the Local Government, direct that, instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be not less than three or more than seven years.

(2) The powers so conferred on the Court by this section shall be exercised only by (a) the High Court, (b) a Court of Session, (c) a District Magistrate, and (d) any Magistrate specially empowered by the Local Government in this behalf, and may be exercised by such Courts whether the case comes before them originally or on appeal.

(9) The Local Government may make rules for—

(a) defining what youthful offenders should be sent to Reformatory Schools, having regard to the nature of their offences or other considerations, and

(b) regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations.*

9. (1) When any Magistrate not empowered to pass an order under the

Procedure where Magistrate is not empowered to pass an order under section 8.

last foregoing section is of opinion that a youthful offender convicted by him is a proper person to be an inmate of a Reformatory School, he may, without passing sentence, record such opinion and

submit his proceedings and forward the youthful offender to the District Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are so submitted may make such further inquiry (if any) as he may think fit and pass such sentence and order for the detention in a Reformatory School of the youthful offender or otherwise, as he might have passed if such youthful offender had been originally tried by him.

10. The officer in charge of a prison in which a youthful offender is

Power of Magistrates to direct boys under fifteen sentenced to imprisonment to be sent to Reformatory Schools.

confined, in execution of a sentence of imprisonment, may bring him, if he has not then attained the age of fifteen years, before the District Magistrate within whose jurisdiction such prison is situate ; and such Magistrate may, if such youthful

offender appears to be a proper person to be an inmate of a Reformatory School, direct that, instead of undergoing the residue of his sentence, he shall be sent to a Reformatory School, and there detained for a period which shall be subject to the same limitations as are prescribed by or under section 8, with reference to the period of detention thereby authorized.

11. (1) Before directing any youthful offender to be sent to a Reform-

Preliminary inquiry and finding as to age of youthful offender.

atory School under section 8, section 9 or section 10, the Court or Magistrate shall inquire into the question of his age and, after taking such evidence

(if any) as may be deemed necessary, shall record a finding thereon, stating his age as nearly as may be.

(2) A similar inquiry shall be made and finding recorded by every Magistrate not empowered to pass an order under section 8 before submitting

* For rules regulating the period for which youthful offenders may be sent to Reformatories in : (1) Bengal, see *Calcutta Gazette*, 1899, Part I, p. 226 ; (2) Bombay, see *Bombay List of Local Rules and Orders*, Ed. 1896, Vol. I, p. 160 ; (3) Burma, see *Burma Gazette*, 1897, Part I, p. 301 ; (4) Central Provinces, see *Central Provinces List of Local Rules and Orders*, Ed. 1896, p. 23 ; (5) Madras, see *Madras List of Local Rules and Orders*, Ed. 1898, Vol. I, p. 33.

Act VIII of 1907. his proceedings and forwarding the youthful offender to the District Magistrate as required by section 9, sub-section (1).

12. Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may, by general or special order, appoint for the reception of youthful offenders so dealt with by such Court or Magistrate :

Government to determine Reformatory School offenders

Provided that, if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be detained in the juvenile ward or such other suitable part of a prison as the Local Government may direct—

(a) until he can be sent to a Reformatory School, or

(b) until the term of his original sentence expires,

whichever event may first happen. Should the term of his original sentence first expire, he shall thereupon be released, but, should he be sent to a Reformatory School, then the period of detention previously undergone shall be treated as detention in a Reformatory School.

13. (1) If at any time after a youthful offender has been sent to a Reformatory School, it appears to the Committee of Visitors or Board of Management, as the case may be, that the age of such youthful offender has been understated in the order for detention, and that he will attain the age of eighteen years before the expiration of the period for which he has been ordered to be detained, they shall report the case for the orders of the Local Government.

Persons found to be over eighteen years not to be detained in Reformatory Schools.

(2) No person shall be detained in a Reformatory School after he has been found by the Local Government to have attained the age of eighteen years.

Discharge or removal by order of Government.

14. The Local Government may at any time order any youthful offender—

(a) to be discharged from a Reformatory School;

(b) to be removed from one Reformatory School to another such school situate within the territories subject to such Government : Provided that the whole period of his detention in a Reformatory School shall not be increased by such removal.

15. (1) The Governor-General in Council may by general or special order direct that any Reformatory School situated in one province shall be available for the reception of youthful offenders directed to be sent to any Reformatory School by any Court or Magistrate in any other province.

Power to Governor-General in Council to direct use of Reformatories in one province for reception of youthful offenders from another.

(2) Any such order may also provide for the removal of the youthful offender, and the cost of his maintenance, and may give any such further directions as may be necessary.

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16. Nothing contained in the Code of Criminal Procedure, 1882,* shall be construed to authorize any Court or Magistrate to alter or reverse in appeal or revision any order passed with respect to the age of a youthful offender or the substitution of an order for detention in a Reformatory School for transportation or imprisonment.

Certain orders not subject to appeal or revision.

III.—*Management of Reformatory Schools.*

Appointment of Superintendent and Committee of Visitors or Board of Management.

17. (1) For the control and management of every Reformatory School, the Local Government shall appoint either (a) a Superintendent and a Committee of Visitors, or (b) a Board of Management.

(2) Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India.

(3) The Local Government may suspend or remove any Superintendent or any Member of a Committee or Board so appointed.

18. (1) Every Superintendent so appointed may, with the sanction of the Committee, by license under his hand, permit any youthful offender sent to a Reformatory School, who has attained the age of fourteen years, to live under the charge of any trustworthy and respectable person named in the license, or, any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such youthful offender employed at some trade, occupation or calling.

(2) The license shall be in force for three months and no longer, but may, at any time and from time to time until the expiration of the period for which the youthful offender has been directed to be detained, be renewed for three months at a time.

Cancellation of license.

19. The license shall be cancelled at the desire of the employer named in the license.

Determination of license.

20. If during the term of the license the employer named therein dies, or ceases from business or to employ labour, or the period for which the youthful offender

* See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*.

Act VIII of 1897. been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine.

21. If it appears to the Superintendent that the employer has ill-treated the youthful offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license.

Cancellation of license in case of ill-treatment.

22. (1) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of Act No. XIX of 1850 (*concerning the binding of apprentices*).

Superintendent to be deemed guardian of youthful offenders.

(2) If it appears to the Superintendent that any youthful offender licensed under section 18 has behaved well during one or more periods of his license, the Superintendent may, with the sanction of the Committee, apprentice him under the provisions of the said Act, and on such apprenticeship the right to detain such youthful offender in a Reformatory School shall cease and the unexpired term (if any) of his sentence shall be cancelled.

Power to apprentice youthful offender.

23. (1) Every Committee of Visitors appointed under section 17 for a Reformatory School shall, at least once in every month,—

Duties of Committee of Visitors.

(a) visit the school, to hear complaints and see that the requirements of section 6 have been complied with, and that the management of the school is proper in all respects ;

(b) examine the punishment-book ;

(c) bring any special cases to the notice of the Inspector-General ; and

(d) see that no person is illegally detained in the school.

(2) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

24. If, in exercise of the power conferred by section 17, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent under sections 18 to 22, both inclusive ; and the license mentioned in section 18 may be under the hand of their chairman ; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Powers of Board of Management.

25. The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 5, clause (b), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management. **Act VI of 1897.**

Power to appoint Trustees or other managers of a school to be a Board of Management.

shall have all the powers and perform all the functions of such Board of Management.

26. (1) With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act—

Power of Board to make rules.

(i) to prescribe the articles which are to be deemed to be "prohibited articles" ; and

(ii) to regulate—

- (a) the conduct of business of the Board ;
- (b) the management of the school ; *
- (c) the education and industrial training of youthful offenders ;
- (d) visits to, and communication with, youthful offenders ;
- (e) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into or removed out of the school ;
- (f) the manner in which such articles are to be removed when introduced without due authority ;
- (g) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein ;
- (h) the conditions on which the possession by any such youthful offender of such articles may be sanctioned ;
- (i) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority ;
- (j) the punishment of offences committed by youthful offenders ; and
- (k) the granting of licenses for the employment of youthful offenders.

* For rules framed by the Government of (1) Bengal, for the management of the Reformatory at Alipur, see rules dated 29th June 1877 ; (2) Bombay, for the management of the Reformatory at Yerrowda, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 151 ; (3) Burma, for the management of the Reformatory at Insein, see Burma Laws List, Ed. 1897, p. 70 ; (4) Madras, for the management of the Reformatory at Obingleput, see Madras List of Local Rules and Orders, Ed. 1889, Vol. I, p. 32.

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(2) In the absence of a Board of Management, the Local Government may make rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of sub-section (1), other than clause (ii) (a), and also the mode in which the Committee of Visitors shall conduct their business.

IV.—Offences in relation to Reformatory Schools.

27. Whoever, contrary to any rule made under section 26, introduces or removes or attempts by any means whatever to introduce or remove into or from any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article.

Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders.

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Reformatory School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits,

and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

28. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding two hundred rupees, or with both.

29. A Police-officer may, without orders from a Magistrate and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer.

Penalty for abetting escape of youthful offender.

Arrest of escaped youthful offender.

V.—Miscellaneous.

30. Repealed by Act III of 1900, Schedule III.

31. (1) Notwithstanding anything contained in this Act or in any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation

Power to deal in other ways with youthful offenders.

or imprisonment or directing him to be detained in a Reformatory School, **Act V of 1898**
order him to be—

- (a) discharged after due admonition, or
- (b) delivered to his parent or to his guardian or nearest adult relative, or such parent, guardian or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

(2) For the purposes of this section the term “ youthful offender ” shall include a girl.

(3) The powers conferred on the Court by this section shall be exercised only by Courts empowered by or under section 8.

When any youthful offender is convicted by a Court not empowered to act under this section, and the Court is of opinion that the powers conferred by this section should be exercised in respect of such youthful offender, it may record such opinion and submit the proceedings and forward the youthful offender to the District Magistrate to whom such Court is subordinate.

• (5) The District Magistrate to whom the proceedings are so submitted may thereupon make such order or pass such sentence as he might have made or passed if the case had originally been tried by him.

32. When a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court, the sentence of such Court shall commence at once, notwithstanding anything to the contrary in section 397 of the Code of Criminal Procedure, 1882,* but the Court shall forthwith report the matter to the Local Government, which shall have power to deal with the matter in any way in which it thinks fit.

* See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed *infra*.

Act X
of
1897.

ACT X OF 1897.*

RECEIVED THE G.-G.'S ASSENT ON THE 11TH MARCH 1897.

An Act to consolidate and extend the General Clauses Acts, 1868 and 1887.

WHEREAS it is expedient to consolidate and extend the General Clauses Acts, 1868 and 1887 ; It is hereby enacted as follows :—

Preliminary.

Short title and commencement.

1. (1) This Act may be called the General Clauses Act, 1897 ; and

It shall come into force at once.

Repeal.

2. The Acts mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

General Definitions.

3. In this Act, and in all Acts of the Governor-General in Council and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

(1) “abet,” with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code :
“ Abet.”

(2) † “ act,” used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions :
“ Act.”

(3) ‡ “ affidavit ” shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing :
“ Affidavit.”

* For Statement of Objects and Reasons, see *Gazette of India*, 1897, Part V, p. 38 ; for Report of the Select Committee, see *ibid.*, p. 77 ; and for Proceedings in Council, see *ibid.*, Part VI, pp. 35, 40, 56 and 76.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule, printed, Burma Code, Ed. 1899.

† Cf. the Indian Penal Code (Act XLV of 1860) and the Madras General Clauses Act, 1891 (Madras Act III of 1891).

‡ Cf. the definitions of “ Oath ” and “ Swear ” in sub-ss. (36) and (55), *infra*. As to affidavits in civil proceedings, see Ch. XVI of the Code of Civil Procedure (Act XIV of 1882) : as to criminal proceedings, see Code of Criminal Procedure,

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"Barrister." (4)* "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland :

"Bengal Act." (5) "Bengal Act" † shall mean an Act made by the Lieutenant-Governor of Bengal in Council under the Indian Councils Acts, 1861‡ and 1892 :

"Bombay Act." (6) "Bombay Act" shall mean an Act made by the Governor of Bombay in Council under the Indian Councils Acts, 1861‡ and 1892 :

"British India." (7)§ "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India :

"British possession." (8) || "British possession" shall mean any part of Her Majesty's dominions, exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession ;

"Chapter" (9) "Chapter" shall mean a Chapter of the Act or Regulation in which the word occurs :

"Collector." (10)¶ "Collector" shall mean, in a Presidency-town, the Collector of Calcutta, Madras or Bombay, as the case may be, and elsewhere the chief officer in charge of the revenue-administration of a district :

"Colony." (11)§ "Colony" shall mean any part of Her Majesty's dominions, exclusive of the British Islands and of British India, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony :

* Cf. the Indian High Courts Act, 1861 (24 & 25 Vict., c. 104), s. 19, printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 713.

† Since the passing of this Act, the Punjab and Burma Legislative Councils have been constituted, and their Acts may by analogy be referred to as "Punjab" and "Burma Acts."

‡ Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.

§ Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (4). For definition of "India," see *infra*, sub-s. (27).

|| Cf. *ibid.*, s. 18 (2).

¶ Cf. the Bombay General Clauses Act, 1886 (Bom. Act III of 1886), s. 3 (12), and the N.-W. P. and Oudh General Clauses Act, 1887 (N.-W. P. and Oudh Act I of 1887), s. 2 (12), printed, Bombay Code, Ed. 1896, Vol. II, p. 91, and N.-W. P. and Oudh Code, Ed. 1892, p. 723, respectively.

§ Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18

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(30) "Madras Act" shall mean an Act made by the Governor of Fort St. George in Council under the Indian Councils
"Madras Act." *

"Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure † for the time being in force :

(32) ‡ "Master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship :
"Master" (of a ship).

(33) "Month" shall mean a month reckoned according to the British calendar :

"Movable property." (34) "movable property" § shall mean property of every description, except immovable property :

(35) "North-Western Provinces and Oudh Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh in Council under the Indian Councils Acts, 1861 * and 1892 :
"North-Western Provinces and Oudh Act."

(36) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing :
"Oath."

"Offence." (37) || "offence" shall mean any act or omission made punishable by any law for the time being in force :

"Part." "Part" shall mean a Part of the Act or Regulation in which the word occurs :

"Person." (38) "person" shall include any company or association or body of individuals, whether incorporated or not :

"Political Agent." (40) ¶ "Political Agent" shall include—

- (a) the principal officer representing the Government in any territory or place beyond the limits of British India, and
- any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Government

* Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 695.

† The Code now in force is Act V of 1898.

‡ See s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

§ For a comprehensive definition of the word "property," see s. 168 of the Bankruptcy Act, 1883 (46 & 47 Vict., c. 52).

|| See a similar definition in s. 4 (o) of the Code of Criminal Procedure, 1898 (Act V of 1898).

¶ See s. 3 of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879).

to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition :

(41) * “ Presidency-town ” shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be :

“ Privy Council.” (42) † “ Privy Council ” shall mean the Lords and others for the time being of Her Majesty’s Most Honourable Privy Council :

“ Province.” (43) ‡ “ Province ” shall mean the territories for the time being administered by any Local Government :

“ Public nuisance.” (44) “ public nuisance ” shall mean a public nuisance as defined in the Indian Penal Code § :

“ Registered.” || “ registered,” used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents :

“ Regulation.” (46) “ Regulation ” shall mean a Regulation made under the Government of India Act, 1870 ¶ :

“ Rule.” “ rule ” shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment

“ Schedule.” (48) “ schedule ” shall mean a schedule to the Act or Regulation in which the word occurs :

“ Scheduled District.” (49) “ scheduled District ” shall mean a “ Scheduled District ” as defined in the Scheduled Districts Act, 1874 :

“ Section.” (50) “ section ” shall mean a section of the Act or Regulation in which the word occurs :

* See s. 4 (h) of the repealed Code of Criminal Procedure, 1882 (Act X of 1882), s. 3 (25) of the Madras General Clauses Act, 1891 (Mad. Act I of 1891).

† Cf. s. 12 (5) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

‡ Cf. s. 4 (g) of the repealed Code of Criminal Procedure, 1882 (Act X of 1882).

§ As to procedure in the case of public nuisances, see Code of Criminal Procedure, 1898 (Act V of 1898), Ch. X.

|| Cf. the Madras General Clauses Act, 1891 (Mad. Act I of 1891), s. 3 (11). As to law now in force, see the Indian Registration Act, 1877 (III of 1877).

¶ Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 879.

§ The provisions of ss. 20 to 24 *infra* apply to rules defined in this sub-section.

"Ship." (51)* "ship" shall include every description of vessel used in navigation not exclusively propelled by oars:

"Sign." (52)† "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions:

"Son." (53) "son," in the case of any one whose personal law permits adoption, shall include an adopted son:

"Sub-section." "sub-section" shall mean a sub-section of the section in which the word occurs:

"Swear." "swear" with its grammatical variations and cognate expressions shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing:

"Vessel." (56)§ "vessel" shall include any ship or boat or any other description of vessel used in navigation:

"Will." (57)|| "will" shall include a codicil and every writing making a voluntary posthumous disposition of property:

"Writing." (58)¶ expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form: and

"Year." (59)§ "year" shall mean a year reckoned according to the British calendar.

(1) The definitions in section 3 of the following words and expressions, that is to say, "affidavit," "barrier," "British India," "District Judge," "father," "Government of India," "Her Majesty" or "the Queen," "High Court," "immovable property," "imprisonment,"

* Cf. s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

† See also definition of "Writing" in sub-s. 58, *infra*.

‡ See also definitions of "affidavit" and "oath" *supra*, sub-sa. (3) & (36), respectively, and as to oaths, see the Indian Oaths Act, 1873 (X of 1873).

§ Cf. s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60). This definition supplements the definition of ship in sub-s. (51), *supra*: see also definition of vessel in s. 48 of the Indian Penal Code, 1860 (Act XLV of 1860).

|| See the definition of 'will' in s. 3 of the Indian Succession Act, 1865 (X of 1865).

¶ Cf. s. 20 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

§ As to "financial year," see sub-s. (19),

"Local Government," "Magistrate," "month," "movable property," "oath," "person," "section," "son," "swear," "will" and "year," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor-General in Council made after the third day of January, 1868, and to all regulations made on or after the fourteenth day of January, 1887.

(2) The definitions in the said section of the following words and expressions, that is to say, "abet," "chapter," "commencement," "financial year," "local authority," "master," "offence," "Part," "public nuisance," "registered," "schedule," "ship," "sign," "sub-section" and "writing," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor-General in Council and Regulations made on or after the fourteenth day of January, 1887.

General Rules of Construction.

5 (1) Where any Act of the Governor-General in Council is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent of the Governor-General.

Coming into operation of enactments.

(2) Where any Act of the Governor-General in Council is reserved under the Indian Councils Act, 1861,* section 20, for the signification of Her Majesty's pleasure thereon, then, if no later date is expressed, it shall come into operation, if assented to by Her Majesty, on the day on which the assent of Her Majesty is duly proclaimed.

†(3) Unless the contrary is expressed, an Act of the Governor-General in Council or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

6.‡ Where this Act, or any Act of the Governor-General in Council or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

Effect of repeal.

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

* Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.

† Cf. s. 36 (2) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

As to power to make rules between the passing and commencement of an Act which does not come into force at once, see s. 22, *infra*.

Cf. s. 38 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

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(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactments so repealed ; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

7.* (1) In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

Revival of repealed enactments.

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

8.† Where this Act, or any Act of the Governor-General in Council or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Construction of references to repealed enactments.

9. (1) In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to."

Commencement and termination of time.

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

10.‡ (1) Where, by any Act of the Governor-General in Council or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered

Computation of time.

* Cf. s. 11 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

† Cf. s. 38 (1) of the Interpretation Act 1889 (52 & 53 Vict. c. 63).

as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

(2) This section applies also to all Acts of the Governor-General in Council and Regulations made on or after the fourteenth day of January, 1887.

11.* In the measurement of any distance, for the purposes of any Act of the Governor-General in Council or Regulation made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Measurement of distances.

12. Where, by any enactment† now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandize, then a like duty is leviable according to the same rate on any greater or less quantity.

Duty to be taken *prorata* in enactments.

13. In all Acts of the Governor-General in Council and Regulations, unless there is anything repugnant in the subject or context,—

Gender and number.

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and *vice versa*.

Powers and Functionaries.

14. (1) Where, by any Act of the Governor-General in Council or Regulation made after the commencement of this Act, any power is conferred on the Government, then that power may be exercised from time to time as occasion requires.

Powers conferred on the Government to be exercisable from time to time.

(2) This section applies also to all Acts of the Governor-General in Council and Regulations made on or after the fourteenth day of January, 1887.

15. Where, by any Act of the Governor-General in Council or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.‡

Power to appoint to include power to appoint *ex-officio*.

* Cf. s. 34 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

† As to definition of "enactment" see s. 3, sub-s. (17), *supra*.

‡ See similar provision in s. 20 of the Code of Criminal Procedure.

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16. Where, by any Act of the Governor-General in Council or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.*

17. (1) In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

18. (1) In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

19. (1) In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

Provisions as to Orders, Rules, etc., made under Enactments.

20.* Where, by any Act of the Governor-General in Council or Regulation, a power to issue any order, scheme, rule, form or bye-law is conferred, then expressions used in the order, scheme, rule, form or bye-law, if it is made after the commencement of this Act, shall, unless there is any thing repugnant in the subject or context, have the same respective meanings as in the Act or Regulation conferring the power.

Construction of orders, etc., issued under enactments.

21.† Where, by any Act of the Governor-General in Council or Regulation, a power to make orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules or bye-laws so made.

Power to make to include power to add to, amend, vary or rescind orders, rules or bye-laws.

22.‡ Where, by any Act of the Governor-General in Council or Regulation which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.

23. Where, by any Act of the Governor-General in Council or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely:—

Provisions applicable to making of rules or bye-laws after previous publication.

(1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to

* Cf. s. 31 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), and s. 10 of the Madras General Clauses Act, 1891 (Mad. Act I of 1891).

† Cf. s. 32 (3) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

‡ Cf. s. 37 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

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previous publication so requires, in such manner as the Governor-General in Council or the Local Government prescribes ;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;

(4) the authority having power to make the rules or bye-laws, and where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified ;

(5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

24.* Where any Act of the Governor-General in Council or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any order, scheme, rule, form or bye-law, issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been issued under the provisions so re-enacted, unless and until it is superseded by any order, scheme, rule, form or bye-law issued under the provisions so re-enacted.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

Miscellaneous.

25. Sections 63 to 70 of the Indian Penal Code and the provisions of the Code of Criminal Procedure† for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.

Recovery of fines.

26. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.‡

Provision as to offences punishable under two or more enactments.

* Cf. s. 18 of the Madras General Clauses Act, 1891 (Mad. Act I of 1891). Similar provisions occur frequently in Indian Acts, *see, e.g.*, s. 2 of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879).

† See now s. 386 *et seq.* of the Code of Criminal Procedure, 1898 (Act V of 1898).

‡ As to definition of "offence" see *supra*, sub-a. (37).

27.* Where any Act of the Governor-General in Council or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

28.† (1) In any Act of the Governor-General in Council or Regulation, and in any rule, bye-law, instrument or document made under, or with reference to, any such Act or Regulation; any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act and in any Act of the Governor-General in Council or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

29.‡ The provisions of this Act respecting the construction of Acts, Regulations, rules or bye-laws made after the commencement of this Act shall not affect the construction of any Act, Regulation, rule or bye-law made before the commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, Regulation, rule or bye-law made after the commencement of this Act.

* Cf. s. 26 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

† Cf. s. 35 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63). Short titles have been conferred on the unrepealed General Acts of the Governor-General in Council which had previously no short titles, *see* The Indian Short Titles Act, 1897 (XIV of 1897).

‡ Cf. s. 40 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

Act XII
of
1897.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Title or subject.	Extent of repeal.
1868	I	The General Clauses Act, 1868 . . .	The whole.
1872	I	The Indian Evidence Act, 1872 . . .	So much as relates to Act I of 1868.
1887	I	The General Clauses Act, 1887 . . .	The whole.
1891	XII	The Repealing and Amending Act, 1891 . " "	So much as relates to Act I of 1868.

ACT XII OF 1897.*

RECEIVED THE G.-G.'S ASSENT ON THE 26TH MARCH 1897.

An Act to enable local authorities to borrow money for temporary emergencies.

WHEREAS it is expedient to enable local authorities to borrow money for temporary emergencies ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Local Authorities (Emergency) Loans Act, 1897.

(2) It extends to the whole of British India, and

(3) It shall come into force at once.

2. (1) Notwithstanding anything contained in the Local Authorities Loan Act, 1879, or any other law for the time being in force, a local authority as defined in that Act may, with the previous sanction of the Governor-General in Council, borrow money on the security of its funds for any of the following purposes, namely :—

(Power to local authorities to borrow in cases of famine or epidemic disease.)

- (a) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity ;

* For Statement of Objects and Reasons, see *Gazette of India*, 1897, part V, p. 67 ; for Report of the Select Committee, see *ibid.*, p. 93 ; and for Proceedings in Council, see *ibid.*, part VI, pp. 47, 80, 112 and 198.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), Burma Code, Ed. 1899.

(b) the prevention of the outbreak or spread of any dangerous epidemic disease ; and

(c) any measures which may be connected with, or ancillary to, any of the purposes aforesaid.

(2) Nothing in this section shall be deemed to authorize any local authority to borrow or spend money for any purpose for which under the law for the time being in force it is not authorized to apply its funds.

3. (1) Every loan under the last foregoing section shall be made subject to such terms and conditions as the Governor-General in Council may think fit to impose.

Power to Governor-General in Council to impose conditions.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the Governor-General in Council may, by general or special order, prescribe—

(a) the terms on which the Governor-General in Council or the Local Government may lend money under this Act ;

(b) the manner of recording and enforcing the conditions on which such loans are to be made ;

(c) the inspection of any works carried out or expenditure incurred by means of such loans ;

(d) the instalments by which such loans are to be repaid, the interest to be charged thereon and the manner and time of repaying such loans and of paying the interest thereon ; and

(e) the accounts to be kept in respect of such loans.

Application of sections 6 and 7, Act XI, 1879.

4. The provisions of sections 6 and 7 of the Local Authorities Loan Act, 1879, shall apply to the borrowing of money under this Act.

5. The provisions of this Act shall apply to any loan made after the day of January, 1897, and before the commencement of this Act by, or with the sanction of, the Governor-General in Council to any local authority for any of the purposes hereinbefore mentioned, and every such loan shall be deemed to have been made under this

Application to loans made before commencement of Act.

Act XIV
of
1897.

ACT XIV OF 1897.*

RECEIVED THE G.-G.'S ASSENT ON THE 22ND JULY 1897.

An Act to facilitate the citation of certain Acts.

WHEREAS it is expedient to facilitate the citation of certain Acts ; It is hereby enacted as follows :—

Title and commence-
ment.

1. (1) This Act may be called the Indian Short Titles Act, 1897 ; and

(2) It shall come into force at once.

2. Each of the Acts described in the first three columns of the schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Citation of Acts describ-
ed in schedule.

THE SCHEDULE†

1	2	3	4
Year.	No.	Subject.	Short Title.
1834	II	Authorizing Secretaries to Government to exercise powers of Chief Secretaries.	The Secretaries to Government Act, 1834.

* For Statement of Objects and Reasons, see *Gazette of India*, 1897, part V, p. 110 ; and for Proceedings in Council, see *ibid.*, 1897, pp. 206 and 217.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), Burma Code, Ed. 1899.

† Acts to which short titles have been given by this Schedule are unrepealed General Acts of the Governor-General in Council.

THE SCHEDULE.

1	2	3	4
Year.	No.	Subject.	Short Title.
1837	IV	Empowering all subjects of Her Majesty to hold land.	The Property in Land Act, 1837.
1838	XXV	Wills	The Wills Act, 1838.
1839	XXIX	Amending the Law relating to Dower ...	The Dower Act, 1839.
"	XXX	Amending the Law of Inheritance ...	The Inheritance Act, 1839.
"	XXXII	Concerning the allowance of interest in certain cases.	The Interest Act, 1839.
1841	X	Prescribing the Rules to be observed in order that ships or vessels belonging to ports within the territories under the Government of the East India Company, or belonging to Native Princes or States or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council made in pursuance of the Statute 3rd and 4th Victoria. ch. 56.	The Indian Registration of Ships Act, 1841.
"	XIX	Providing for the protection of movable and immovable property against wrongful possession in cases of succession.	The Succession (Property Protection) Act, 1841.
"	XXIV	Providing for the greater uniformity of the Law administered by Her Majesty's Supreme Courts with that administered in England in regard to the undisposed residue of the effects of Testators, Illusory Appointments, the transfer of Estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons and other like matters.	The Illusory Appointments and Infants' Property Act, 1841.
"	XXVII	Providing for the appropriation of the unclaimed Dividends on Insolvent Estates.	The Insolvent Estates (Unclaimed Dividends) Act, 1841.
1843	V	Declaring and amending the Law regarding the condition of Slavery within the territories of the East India Company.	The Indian Slavery Act, 1843.

Lot XIV
of
1897.

THE SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject.	Short Title.
1846	I	Amending the Law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The Legal Practitioners Act, 1846.
1847	XX	Providing for the encouragement of learning in the territories subject to the Government of the East India Company by defining and providing for the enforcement of the right called Copyright therein.	The Indian Copyright Act, 1847.
1848	XV	Forbidding trading by the Officers of the Supreme Courts.	The Supreme Courts' Officers Trading Act, 1848.
1850	V	Providing for freedom of the Coasting Trade of India.	The Indian Coasting Trade Act, 1850.
"	XI	Amending Act X, 1841	The Indian Registration of Ships Act (1841) Amendment Act, 1850.
"	XII	Providing for avoiding loss by the default of Public Accountants.	The Public Accountants' Defaults Act, 1850.
"	XVIII	Providing for the protection of Judicial Officers.	The Judicial Officers' Protection Act, 1850.
"	XIX	Concerning the binding of Apprentices ...	The Apprentices Act, 1850.
"	XXI	Extending the principle of section 9, Regulation VIII, 1832, of the Bengal Code throughout the territories subject to the Government of the East India Company.	The Caste Disabilities Removal Act, 1850.
"	XXXIV	Providing for the better custody of State Prisoners.	The State Prisoners Act, 1850.
1851	VIII	Enabling Government to levy Tolls on Public Roads and Bridges.	The Indian Tolls Act, 1851.
1852	VIII	Providing for the remuneration of the Sheriffs of Calcutta, Madras and Bombay for the execution of Mufassal Process under the Code of Criminal Procedure, 1882. and the Code of Civil Procedure.	The Sheriffs' Fees Act, 1852.
"	XXX	Providing for the Naturalization of Aliens.	The Indian Naturalization Act, 1852.

THE SCHEDULE—*contd.*

Act

1	2	3	4
Year.	No.	Subject.	Short Title.
1853	II	Removing doubts as to the liability of all subjects of Her Majesty to the same jurisdiction as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.	The Landholders' Public Charges and Duties Act, 1853.
"	XX	Amending the law relating to Pleaders in the Courts of the East India Company.	The Legal Practitioners Act, 1853.
1854	XXXI	Simplifying the modes of conveying land in cases to which the English Law is applicable.	The Conveyance of Land Act, 1854.
1855	XI	Relating to Mesne Profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.	The Mesne Profits and Improvements Act, 1855.
"	XII	Enabling Executors, Administrators or Representatives to sue and be sued for certain wrongs.	The Legal Representatives' Suits Act, 1855.
"	XIII	Providing compensation to families for loss occasioned by the death of a person caused by actionable wrong.	The Indian Fatal Accidents Act, 1855.
"	XXIII	Amending the law relating to the administration of the Estates of deceased persons charged with money by way of mortgage.	The Mortgaged Estates' Administration Act, 1855.
"	XXIV	Substituting penal servitude for the punishment of transportation in respect of European and American Convicts.	The Penal Servitude Act, 1855.
"	XXVIII	Repealing the Usury Laws	The Usury Laws Repeal Act, 1855.
1856	IX	Amending the law relating to Bills of Lading.	The Indian Bills of Lading Act, 1856.
"	XI	Providing for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India.	The European Deserters Act, 1856.
"	XV	Removing all legal obstacles to the marriage of Hindu Widows.	The Hindu Widows' Remarriage Act, 1856.
1857	II	Providing for the establishment and incorporation of a University at Calcutta.	The Calcutta University Act, 1857.

**Act XIV
of
1857.**

THE SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject.	Short Title.
1857	XI	Providing for the prevention, trial and punishment of offences against the State.	The State Offences Act, 1857.
"	XXII	Providing for the establishment and incorporation of a University at Bombay.	The Bombay University Act, 1857.
"	XXV	Providing for the adjudication and recovery of forfeitures of property in certain cases.	The Forfeiture Act, 1857.
"	XXVII	Providing for the establishment and incorporation of a University at Madras.	The Madras University Act, 1857.
1858	III	Amending the law relating to the Arrest and Detention of State Prisoners.	The State Prisoners Act, 1858.
"	XXXIV	Regulating proceedings in Lunacy in the Courts of Judicature established by Royal Charter.	The Lunacy (Supreme Courts) Act, 1858.
"	XXXV	Making better provision for the care of the Estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.	The Lunacy (District Courts) Act, 1858.
"	XXXVI	Lunatic Asylums	The Indian Lunatic Asylums Act, 1858.
1859	I	Amending the law relating to Merchant Seamen.	The Indian Merchant Shipping Act, 1859.
"	IX	Providing for the adjudication of claims to property seized or forfeited.	The Forfeiture Act, 1859.
"	XIII	Providing for the punishment of breaches of Contract by Artificers, Workmen and Labourers in certain cases.	The Workmen's Breach of Contract Act, 1859.
1860	IX	Making provision for the speedy determination of certain disputes between workmen engaged in railway and other public works and their employers.	The Employers and Workmen (Disputes) Act, 1860.
"	XXI	Providing for the Registration of Literary, Scientific and Charitable Societies.	The Societies' Registration Act, 1860.
"	XXIV	Indemnifying Officers of Government and other persons in respect of fines and contributions levied, and acts done, by them during the late disturbances.	The Government Officers' Indemnity Act, 1860.

THE SCHEDULE—*contd.*Act XXV
of
1857.

1	2	3	4
Year.	No.	Subject.	Short Title.
1860	XLVII	Giving to the Universities of Calcutta, Madras and Bombay the power of conferring degrees in addition to those mentioned in Acts II, XXII and XXVII of 1857.	The Indian Universities (Degrees) Act, 1860.
1861	V	Providing for the Regulation of Police ...	The Police Act, 1861.
"	XVI	Providing for the licensing and regulation of Stage-Carriages.	The Stage-Carriages Act, 1861.
1862	III	Amending the law relating to the use of a Government Seal.	The Government Seal Act, 1862.
1863	XVI	Making special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.	The Excise (Spirits) Act, 1863.
"	XX	Enabling the Government to divest itself of the management of Religious Endowments.	The Religious Endowments Act, 1863.
"	XXIII	Providing for the adjudication of claims to waste lands.	The Waste Lands (Claims) Act, 1863.
"	XXXI	Giving effect to the publication of certain orders and other matters in the Gazette of India.	The Official Gazettes Act, 1863.
1864	III	Giving the Government certain powers with respect to Foreigners.	The Foreigners Act, 1864.
"	VI	Authorizing the punishment of whipping in certain cases.	The Whipping Act, 1864.
"	XV	Amending Act VIII of 1851 (<i>for enabling Government to levy Tolls on public Roads and Bridges</i>).	The Indian Tolls Act, 1864.
"	XVII	Providing for the constitution of an Office of Official Trustee.	The Official Trustees Act, 1864.
1865	XXI	Defining and amending the law relating to Intestate Succession among the Parsis.	The Parsi Intestate Succession Act, 1865.
1866	V	Amending in certain respects the Commercial Law of British India.	The Policies of Insurance (Marine and Fire) Assignment Act, 1866.

**Act XIV
of
1897.**

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1866	XXV	Providing for the transfer to the Government of India of certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay.	The Unclaimed Deposits Act, 1866.
1867	XVI	Authorizing the making of certain acting appointments to certain Judicial Offices.	The Acting Judges Act, 1867.
"	XXV	Providing for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.	The Press and Registration of Books Act, 1867.
1870	I	Providing Rules relating to Quarantine ...	The Indian Quarantine Act, 1870.
"	V	Enabling the High Courts at the Presidency-towns to deal with costs of petitions for certain moneys transferred to Government.	The Unclaimed Deposits Act, 1870.
"	VIII	Providing for the prevention of the murder of Female Infants.	The Female Infanticide Prevention Act, 1870.
"	XX	Correcting two clerical errors in the Court-fees Act, 1870.	The Court-fees Act (1870) Amendment Act, 1870.
"	XXVII	Amending the Indian Penal Code... ..	The Indian Penal Code Amendment Act, 1870.
1872	III	Providing a form of Marriage for persons who do not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jaina religion.	The Special Marriage Act, 1872.
"	XIX	Amending the definition of "Coin" in the Indian Penal Code.	The Indian Penal Code Amendment Act, 1872.
1875	V	Removing doubts as to the rights and liabilities of certain native soldiers.	The Unattested Sepoys Act, 1875.
"	X	<i>Regulating the Procedure of the High Courts in the exercise of their original criminal jurisdiction.</i>	<i>The Advocate-General's (Powers) Act, 1875.</i>
"	XIII	Amending the law relating to Probates and Letters of Administration.	The Probate and Administration Act, 1875.

This Act is now repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

THE SCHEDULE—*contd.***Act XII
of
1897.**

1	2	3	4
Year.	No.	Subject.	Short Title.
1876	XVI	Amending the Stage-Carriages Act ...	The Stage-Carriages Act (1861) Amendment Act, 1876.
1877	II	Amending Act XIII of 1875 ...	The Probate and Administration Act, 1877.
"	IV	Regulating the procedure and increasing the jurisdiction of the Courts of Magistrates in the Presidency-towns.	The Presidency Magistrates (Court-fees) Act, 1877.
1879	XII	Amending the Registration Act, 1877, and the Limitation Act, 1877.	The Registration and Limitation Acts Amendment Act, 1879.
1882	VIII	Amending the Indian Penal Code ...	The Indian Penal Code Amendment Act, 1882.
1883	II	Amending the Elephants' Preservation Act, 1879.	The Elephants Preservation Act (1879) Amendment Act, 1883.
1884	I	Amending the law relating to the granting of honorary degrees by the Universities at Calcutta, Madras and Bombay.	The Indian Universities (Honorary Degrees) Act, 1884.
1885	III	Amending the Transfer of Property Act, 1882.	The Transfer of Property Act (1882) Amendment Act, 1885.
"	IX	Amending the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.	The Excise and Sea Customs Law Amendment Act, 1885.
"	XV	Amending the Local Authorities Loan Act, 1879.	The Local Authorities Loan Act (1879) Amendment Act (1885).
1886	II	Imposing a tax on income derived from sources other than agriculture.	The Indian Income-tax Act, 1880.
"	IV	Amending section 265 of the Indian Contract Act, 1872.	The Indian Contract Act (1872) Amendment Act, 1886.
"	X	Amending the Code of Criminal Procedure, 1882, and certain other Acts.	The Indian Criminal Law Amendment Act, 1886.
"	XVIII	Amending Act XXXVI of 1858 ...	The Indian Lunatic Asylums Act (1858) Amendment Act, 1886.

THE SCHEDULE

Act XIV
of
1897.

1	2	3	4
Year.	No.	Subject.	Short Title.
1887	II	Amending the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.	The Sea Customs Act (1878) Amendment Act, 1887.
"	III	Amending the Indian Evidence Act, 1872.	The Indian Evidence Act (1872) Amendment Act, 1887.
* "	V	Amending the Code of Criminal Procedure, 1882.	The Criminal Procedure Code (1882) Amendment Act, 1887.
"	VI	Amending the Indian Companies Act, 1882.	The Indian Companies Act (1882) Amendment Act, 1887.
1888	I	Amending the Indian Stamp Act, 1879 ...	The Indian Stamp Act (1879) Amendment Act, 1888.
† "	II	Providing for the levy of a Customs-duty on Petroleum.	The Petroleum (Customs-duty) Act, 1888.
"	VIII	Removing doubts as to the legality of the levy of certain Tolls.	The Indian Tolls Act, 1888.
"	X	Amending the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.	The Presidency Small Cause Courts Law Amendment Act, 1888.
"	XI	Making an addition to the Indian Telegraph Act, 1885.	The Indian Telegraph (Presidency-towns) Act, 1888.
"	XVII	Amending the Indian Marine Act, 1887 ...	The Indian Marine Act (1887) Amendment Act, 1888.
1889	VIII	Amending the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	The Sea Customs Act (1878) Amendment Act, 1889.
"	XX	Amending Act XXXVI of 1858 ...	The Indian Lunatic Asylums Act (1858) Amendment Act, 1889.
1890	II	Amending Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.	The Probate and Administration Act, 1890.
"	III	Amending Acts VI and VII of 1884 ...	The Indian Steamships Law Amendment Act, 1890.

* This Act is now repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

† This Act is now repealed by the Indian Stamp Act, 1899 (II of 1899).

THE SCHEDULE—*contd*Act XIV
of
1897.

1 •	2 •	3	4
Year.	No.	Subject.	Short Title.
1890	X	Amending Act XXV of 1867 ...	The Press and Registration of Books Act (1867) Amendment Act, 1890.
"	.	.	.
"	XVI	Amending the Births, Deaths and Marriages Registration Act, 1886.	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890.
"	XVIII	Amending the Indian Emigration Act, 1883.	The Indian Emigration Act (1883) Amendment Act, 1890.
"	XIX	Amending the Indian Salt Act, 1882 ...	The Indian Salt Act (1882) Amendment Act, 1890.
1891	I	Amending the Cattle-trespass Act, 1871, and incorporating therein Act XVIII of 1883.	The Cattle-trespass Act (1871) Amendment Act, 1891.
"	II	Amending the Indian Christian Marriage Act, 1872.	The Indian Christian Marriage Act (1872) Amendment Act, 1891.
"	III	Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.	The Indian Evidence Act (1872) Amendment Act, 1891.
† "	IV	Amending the Code of Criminal Procedure, 1882.	The Criminal Procedure Code (1882) Amendment Act, 1891.
"	V	Amending and supplementing the Indian Ports Act, 1889.	The Indian Ports Act, 1891.
"	VI	Amending certain Acts respecting Indian Merchant Shipping.	The Indian Merchant Shipping Law Amendment Act, 1891.
"	VII	Amending Act X of 1841 ...	The Indian Registration of Ships Act (1841) Amendment Act, 1891.
"	IX	Amending the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878.	The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891.

* The entry relating to Act XIV of 1890 was repealed by the Petroleum Act, 1899 (VIII of 1899).

† This Act is now repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

**Act XIV
of
1897.**

THE SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject.	Short Title.
1891	X	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882.	The Indian Criminal Law Amendment Act, 1891.
"	XIII	Amending the Inland Steam-vessels Act, 1884.	The Inland Steam-vessels Act (1884) Amendment Act, 1891.
1892	II	Validating certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872.	The Marriages Validation Act, 1892.
"	VI	Amending the Indian Limitation Act, 1877, and the Code of Civil Procedure.	The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.
1893	V	Legalising in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to territory beyond the limits of British India jurisdiction which the Governor-General has in such territory.	The Foreign Jurisdiction (Capital Sentences) Act, 1893.
1894	II	Amending the Indian Ports Act, 1889 ...	The Indian Ports Act (1889) Amendment Act, 1894.
"	III	Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code.	The Indian Criminal law Amendment Act, 1894.
"	VI	Amending the Indian Stamp Act, 1879, with respect to Policies of Sea and Fire Insurance and Sale-certificates.	The Indian Stamp Act, 1879, Amendment Act, 1894.
"	VII	Amending the Prisoners Act, 1871 ...	The Prisoners Act (1871) Amendment Act, 1894.
"	X	Amending the Code of Criminal Procedure, 1882.	The Criminal Procedure Code (1882) Amendment Act, 1894.
1895	III	Amending the Indian Penal Code, Act VI of 1864, § and the Indian Post-office Act, 1866.	The Indian Criminal Law Amendment Act, 1895.
"	IV	Amending sections 366 and 371 of the Code of Criminal Procedure, 1882.	The Criminal Procedure Code (1882) Amendment Act, 1895.

* So far as this Act relates to the Criminal Procedure Code, 1882 (Act X of 1882), it has been repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

† This Act is now repealed by the Indian Stamp Act, 1899 (II of 1899).

‡ These Acts have now been repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

§ This Act is now repealed by the Indian Post Office Act, 1898 (VI of 1898).

THE SCHEDULE—*contd.*Act XVI
of
1891.

1	2	3	4
Year.	No.	Subject.	Short Title.
1895	VII	Amending certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872.	The Punjab Laws Act. Amendment Act, 1895.
"	VIII	Amending Act V of 1861 (<i>an Act for the Regulation of Police</i>).	The Police Act (1861) Amendment Act, 1895.
"	XIII	Amending sections 632 and 652 of the Code of Civil Procedure	The Civil Procedure Code Amendment Act, 1895.
1896	I	Amending the Indian Emigration Act, 1883.	The Indian Emigration Act (1883) Amendment Act, 1896.
"	III	Amending the Indian Tariff Act, 1894 ...	The Indian Tariff Act (1894) Amendment Act, 1896.
"	IV	Amending the Indian Ports Act, 1889 ...	The Indian Ports Act (1889) Amendment Act, 1896.
"	V	Amending the Foreign Jurisdiction and Extradition Act, 1879.	The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896.
"	VI	Amending the Indian Penal Code ...	The Indian Penal Code Amendment Act, 1896.
"	VII	Amending the Presidency Small Cause Courts Act, 1882.	The Presidency Small Cause Courts Act (1882) Amendment Act, 1896.
"	IX	Amending the Indian Railways Act, 1890.	The Indian Railways Act (1890) Amendment Act, 1896.
"	XI	Amending the Legal Practitioners Act, 1879.	The Legal Practitioners Act, 1896.
"	XIII	Amending the Code of Criminal Procedure, 1882.	The Criminal Procedure Code (1882) Amendment Act, 1896.
†	*	*	*
†	*	*	*

* This Act is now repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

† The entry relating to the Glanders and Farcy Act, 1879 (XX of 1879), Amendment Act, 1896 (XV of 1896), was repealed by the Glanders and Farcy Act, 1899 (XIII of 1899).

‡ The entry relating to Act XVI of 1896 (to amend the Post Office Act, 1896), was Indian Post Office Act, 1898 (Act VI of 1898).

**Act XVI
of
1891.**

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1897	I	Amending Act XXXVII of 1850 (<i>for regulating Inquiries into the behaviour of Public Servants</i>).	The Public Servants (Inquiries) Act (1850) Amendment Act, 1897.
"	XIII	Amending the Indian Stamp Act, 1879 ...	The Indian Stamp Act (1879) Amendment Act, 1897.

. . ACT XV OF 1897.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND JULY 1897.

An Act to repeal the Cantonments Act Amendment Act, 1895, and to amend the Cantonments Act, 1889.

WHEREAS it is expedient to repeal the Cantonments Act Amendment Act, 1895, and to amend the Cantonments Act, 1889; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Cantonments Act, 1897, and

(2) It shall come into force at once.

Repeal of Act V of 1895.

2. The Cantonments Act Amendment Act, 1895, is hereby repealed.

3. In section 31 of the Cantonments Act, 1889, for the words "or manding officer" the words "or commanding, medical or other officer" shall be substituted.

This Act is now repealed by the Indian Stamp Act, 1899 (II of 1899).

For Statement of Objects and Reasons, see *Gazette of India*, 1897, Part V, p. 113, and for Proceedings in Council, see *ibid*, 1897, Part VI, pp. 210 and 213.

As being part of Act XIII of 1899, it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (Act XIII of 1898), printed, Burma Code, Ed. 1899.

It has been extended to British Baluchistan by notification under s. 3 of the Scheduled Districts Act, 1874 (XIV of 1874), see *Gazette of India*, 1898, Part II, p. 42.

THE STATUTE BOOK.

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